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RECORDS OF THE UNITED STATES

NUERNBERG WAR CRIMES TRIALS

UNITED STATES OF AMERICA v. CARL KRAUCH ET AL. (CASE VI)

AUGUST 14, 1947-JULY 30, 1948

Roll 4

Transcript Volumes (English Version)

Volumes 7-9, p. 2,110-3,233

Oct. 15-31, 1947



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INTRODUCTION

On the 113 rolls of this microfilm publication are reproduced the records of Case VI, *United States of America v. Carl Krauch et al.* (I. G. Farben Case), 1 of the 12 trials of war criminals conducted by the U.S. Government from 1946 to 1949 at Nuernberg subsequent to the International Military Tribunal (IMT) held in the same city. These records consist of German- and English-language versions of official transcripts of court proceedings, prosecution and defense briefs and statements, and defendants' final pleas as well as prosecution and defense exhibits and document books in one language or the other. Also included are minute books, the official court file, order and judgment books, clemency petitions, and finding aids to the documents.

The transcripts of this trial, assembled in 2 sets of 43 bound volumes (1 set in German and 1 in English), are the recorded daily trial proceedings. Prosecution statements and briefs are also in both languages but unbound, as are the final pleas of the defendants delivered by counsel or defendants and submitted by the attorneys to the court. Unbound prosecution exhibits, numbered 1-2270 and 2300-2354, are essentially those documents from various Nuernberg record series, particularly the NI (Nuernberg Industrialist) Series, and other sources offered in evidence by the prosecution in this case. Defense exhibits, also unbound, are predominantly affidavits by various persons. They are arranged by name of defendant and thereunder numerically, along with two groups of exhibits submitted in the general interest of all defendants. Both prosecution and defense document books consist of full or partial translations of exhibits into English. Loosely bound in folders, they provide an indication of the order in which the exhibits were presented before the tribunal.

Minute books, in two bound volumes, summarize the transcripts. The official court file, in nine bound volumes, includes the progress docket, the indictment, and amended indictment and the service thereof; applications for and appointments of defense counsel and defense witnesses and prosecution comments thereto; defendants' application for documents; motions and reports; uniform rules of procedures; and appendixes. The order and judgment books, in two bound volumes, represent the signed orders, judgments, and opinions of the tribunal as well as sentences and commitment papers. Defendants' clemency petitions, in three bound volumes, were directed to the military governor, the Judge Advocate General, and the U.S. District Court for the District of Columbia. The finding aids summarize transcripts, exhibits, and the official court file.

Case VI was heard by U.S. Military Tribunal VI from August 14, 1947, to July 30, 1948. Along with records of other Nuernberg

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and Far East war crimes trials, the records of this case are part of the National Archives Collection of World War II War Crimes Records, Record Group 238.

The I. G. Farben Case was 1 of 12 separate proceedings held before several U.S. Military Tribunals at Nuernberg in the U.S. Zone of Occupation in Germany against officials or citizens of the Third Reich, as follows:

<u>Case No.</u>	<u>United States v.</u>	<u>Popular Name</u>	<u>No. of Defendants</u>
1	<i>Karl Brandt et al.</i>	Medical Case	23
2	<i>Erhard Milch</i>	Milch Case (Luftwaffe)	1
3	<i>Josef Altstoetter et al.</i>	Justice Case	16
4	<i>Oswald Pohl et al.</i>	Pohl Case (SS)	18
5	<i>Friedrich Flick et al.</i>	Flick Case (Industrialist)	6
6	<i>Carl Krauch et al.</i>	I. G. Farben Case (Industrialist)	24
7	<i>Wilhelm List et al.</i>	Hostage Case	12
8	<i>Ulrich Greifelt et al.</i>	RuSHA Case (SS)	14
9	<i>Otto Ohlendorf et al.</i>	Einsatzgruppen Case (SS)	24
10	<i>Alfried Krupp et al.</i>	Krupp Case (Industrialist)	12
11	<i>Ernst von Weissaecker et al.</i>	Ministries Case	21
12	<i>Wilhelm von Leeb et al.</i>	High Command Case	14

Authority for the proceedings of the IMT against the major Nazi war criminals derived from the Declaration on German Atrocities (Moscow Declaration) released November 1, 1943; Executive Order 9547 of May 2, 1945; the London Agreement of August 8, 1945; the Berlin Protocol of October 6, 1945; and the IMT Charter.

Authority for the 12 subsequent cases stemmed mainly from Control Council Law 10 of December 20, 1945, and was reinforced by Executive Order 9679 of January 16, 1946; U.S. Military Government Ordinances 7 and 11 of October 18, 1946, and February 17, 1947, respectively; and U.S. Forces, European Theater General Order 301 of October 24, 1946. Procedures applied by U.S. Military Tribunals in the subsequent proceedings were patterned after those of the IMT and further developed in the 12 cases, which required over 1,200 days of court sessions and generated more than 330,000 transcript pages.

Formation of the I. G. Farben Combine was a stage in the evolution of the German chemical industry, which for many years led the world in the development, production, and marketing of organic dyestuffs, pharmaceuticals, and synthetic chemicals. To control the excesses of competition, six of the largest chemical firms, including the Badische Anilin & Soda Fabrik, combined to form the Interessengemeinschaft (Combine of Interests, or Trust) of the German Dyestuffs Industry in 1904 and agreed to pool technological and financial resources and markets. The two remaining chemical firms of note entered the combine in 1916. In 1925 the Badische Anilin & Soda Fabrik, largest of the firms and already the majority shareholder in two of the other seven companies, led in reorganizing the industry to meet the changed circumstances of competition in the post-World War markets by changing its name to the I. G. Farbenindustrie Aktiengesellschaft, moving its home office from Ludwigshafen to Frankfurt, and merging with the remaining five firms.

Farben maintained its influence over both the domestic and foreign markets for chemical products. In the first instance the German explosives industry, dependent on Farben for synthetically produced nitrates, soon became subsidiaries of Farben. Of particular interest to the prosecution in this case were the various agreements Farben made with American companies for the exchange of information and patents and the licensing of chemical discoveries for foreign production. Among the trading companies organized to facilitate these agreements was the General Anilin and Film Corp., which specialized in photographic processes. The prosecution charged that Farben used these connections to retard the "Arsenal of Democracy" by passing on information received to the German Government and providing nothing in return, contrary to the spirit and letter of the agreements.

Farben was governed by an Aufsichtsrat (Supervisory Board of Directors) and a Vorstand (Managing Board of Directors). The Aufsichtsrat, responsible for the general direction of the firm, was chaired by defendant Krauch from 1940. The Vorstand actually controlled the day-to-day business and operations of Farben. Defendant Schmitz became chairman of the Vorstand in 1935, and 18 of the other 22 original defendants were members of the Vorstand and its component committees.

Transcripts of the I. G. Farben Case include the indictment of the following 24 persons:

Otto Ambros: Member of the Vorstand of Farben; Chief of Chemical Warfare Committee of the Ministry of Armaments and War Production; production chief for Buna and poison gas; manager of Auschwitz, Schkopau, Ludwigshafen, Oppau, Gendorf, Dyhernfurth, and Falkenhagen plants; and Wehrwirtschaftsfuehrer.

Max Brueggemann: Member and Secretary of the Vorstand of Farben; member of the legal committee; Deputy Plant Leader of the Leverkusen Plant; Deputy Chief of the Sales Combine for Pharmaceuticals; and director of the legal, patent, and personnel departments of the Works Combine, Lower Rhine.

Ernst Buerger: Member of the Vorstand of Farben; Chief of Works Combine, Central Germany; Plant Leader at the Bitterfeld and Wolfen-Farben plants; and production chief for light metals, dyestuffs, organic intermediates, plastics, and nitrogen at these plants.

Heinrich Buetefisch: Member of the Vorstand of Farben; manager of Leuna plants; production chief for gasoline, methanol, and chlorine electrolysis production at Auschwitz and Moosbierbaum; Wehrwirtschaftsfuehrer; member of the Himmler Freundeskreis (circle of friends of Himmler); and SS Obersturmbannfuehrer (Lieutenant Colonel).

Walter Duerrfeld: Director and construction manager of the Auschwitz plant of Farben, director and construction manager of the Monowitz Concentration Camp, and Chief Engineer at the Leuna plant.

Fritz Gajewski: Member of the Central Committee of the Vorstand of Farben, Chief of Sparte III (Division III) in charge of production of photographic materials and artificial fibers, manager of "Agfa" plants, and Wehrwirtschaftsfuehrer.

Heinrich Gattineau: Chief of the Political-Economic Policy Department, "WIPO," of Farben's Berlin N.W. 7 office; member of Southeast Europe Committee; and director of A.G. Dynamit Nobel, Pressburg, Czechoslovakia.

Paul Haeffliger: Member of the Vorstand of Farben; member of the Commercial Committee; and Chief, Metals Departments, Sales Combine for Chemicals.

Erich von der Heyde: Member of the Political-Economic Policy Department of Farben's Berlin N.W. 7 office, Deputy to the Chief of Intelligence Agents, SS Hauptsturmfuehrer, and member of the WI-RUE-AMT (Military Economics and Armaments Office) of the Oberkommando der Wehrmacht (OKW) (High Command of the Armed Forces).

Heinrich Hoerlein: Member of the Central Committee of the Vorstand of Farben; chief of chemical research and development of vaccines, sera, pharmaceuticals, and poison gas; and manager of the Elberfeld Plant.

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Max Ilgner: Member of the Vorstand of Farben; Chief of Farben's Berlin N.W. 7 office directing intelligence, espionage, and propaganda activities; member of the Commercial Committee; and Wehrwirtschaftsfuehrer.

Friedrich Jaehne: Member of the Vorstand of Farben; chief engineer in charge of construction and physical plant development; Chairman of the Engineering Committee; and Deputy Chief, Works Combine, Main Valley.

August von Knieriem: Member of the Central Committee of the Vorstand of Farben; Chief Counsel of Farben; and Chairman, Legal and Patent Committees.

Carl Krauch: Chairman of the Aufsichtsrat of Farben and Generalbevollmaechtigter fuer Sonderfragen der Chemischen Erzeugung (General Plenipotentiary for Special Questions of Chemical Production) on Goering's staff in the Office of the 4-Year Plan.

Hans Kuehne: Member of the Vorstand of Farben; Chief of the Works Combine, Lower Rhine; Plant Leader at Leverkusen, Elberfeld, Uerdingen, and Dormagen plants; production chief for inorganics, organic intermediates, dyestuffs, and pharmaceuticals at these plants; and Chief of the Inorganics Committee.

Hans Kugler: Member of the Commercial Committee of Farben; Chief of the Sales Department Dyestuffs for Hungary, Rumania, Yugoslavia, Greece, Bulgaria, Turkey, Czechoslovakia, and Austria; and Public Commissar for the Falkenau and Aussig plants in Czechoslovakia.

Carl Lautenschlaeger: Member of the Vorstand of Farben; Chief of Works Combine, Main Valley; Plant Leader at the Hoechst, Griesheim, Mainkur, Gersthofen, Offenbach, Eystrup, Marburg, and Neuhausen plants; and production chief for nitrogen, inorganics, organic intermediates, solvents and plastics, dyestuffs, and pharmaceuticals at these plants.

Wilhelm Mann: Member of the Vorstand of Farben, member of the Commercial Committee, Chief of the Sales Combine for Pharmaceuticals, and member of the SA.

Fritz ter Meer: Member of the Central Committee of the Vorstand of Farben; Chief of the Technical Committee of the Vorstand that planned and directed all of Farben's production; Chief of Sparte II in charge of production of Buna, poison gas, dyestuffs, chemicals, metals, and pharmaceuticals; and Wehrwirtschaftsfuehrer.

Heinrich Oster: Member of the Vorstand of Farben, member of the Commercial Committee, and manager of the Nitrogen Syndicate.

Hermann Schmitz: Chairman of the Vorstand of Farben, member of the Reichstag, and Director of the Bank of International Settlements.

Christian Schneider: Member of the Central Committee of the Vorstand of Farben; Chief of Sparte I in charge of production of nitrogen, gasoline, diesel and lubricating oils, methanol, and organic chemicals; Chief of Central Personnel Department, directing the treatment of labor at Farben plants; Wehrwirtschaftsfuehrer; Hauptabwehrbeauftragter (Chief of Intelligence Agents); Hauptbetriebsfuehrer (Chief of Plant Leaders); and supporting member of the Schutzstaffeln (SS) of the NSDAP.

Georg von Schnitzler: Member of the Central Committee of the Vorstand of Farben, Chief of the Commercial Committee of the Vorstand that planned and directed Farben's domestic and foreign sales and commercial activities, Wehrwirtschaftsfuehrer (Military Economy Leader), and Hauptsturmfuehrer (Captain) in the Sturmabteilungen (SA) of the Nazi Party (NSDAP).

Carl Wurster: Member of the Vorstand of Farben; Chief of the Works Combine, Upper Rhine; Plant Leader at Ludwigs-hafen and Oppau plants; production chief for inorganic chemicals; and Wehrwirtschaftsfuehrer.

The prosecution charged these 24 individual staff members of the firm with various crimes, including the planning of aggressive war through an alliance with the Nazi Party and synchronization of Farben's activities with the military planning of the German High Command by participation in the preparation of the 4-Year Plan, directing German economic mobilization for war, and aiding in equipping the Nazi military machines.¹ The defendants also were charged with carrying out espionage and intelligence activities in foreign countries and profiting from these activities. They participated in plunder and spoliation of Austria, Czechoslovakia, Poland, Norway, France, and the Soviet Union as part of a systematic economic exploitation of these countries. The prosecution also charged mass murder and the enslavement of many thousands of persons particularly in Farben plants at the Auschwitz and Monowitz concentration camps and the use of poison gas manufactured by the firm in the extermination

¹ The trial of defendant Brueggemann was discontinued early during the proceedings because he was unable to stand trial on account of ill health.

of millions of men, women, and children. Medical experiments were conducted by Farben on enslaved persons without their consent to test the effects of deadly gases, vaccines, and related products. The defendants were charged, furthermore, with a common plan and conspiracy to commit crimes against the peace, war crimes, and crimes against humanity. Three defendants were accused of membership in a criminal organization, the SS. All of these charges were set forth in an indictment consisting of five counts.

The defense objected to the charges by claiming that regulations were so stringent and far reaching in Nazi Germany that private individuals had to cooperate or face punishment, including death. The defense claimed further that many of the individual documents produced by the prosecution were originally intended as "window dressing" or "howling with the wolves" in order to avoid such punishment.

The tribunal agreed with the defense in its judgment that none of the defendants were guilty of Count I, planning, preparation, initiation, and waging wars of aggression; or Count V, common plans and conspiracy to commit crimes against the peace and humanity and war crimes.

The tribunal also dismissed particulars of Count II concerning plunder and exploitation against Austria and Czechoslovakia. Eight defendants (Schmitz, von Schnitzler, ter Meer, Buergin, Haeffliger, Ilgner, Oster, and Kugler) were found guilty on the remainder of Count II, while 15 were acquitted. On Count III (slavery and mass murder), Ambros, Bueteftisch, Duerrfeld, Krauch, and ter Meer were judged guilty. Schneider, Bueteftisch, and von der Heyde also were charged with Count IV, membership in a criminal organization, but were acquitted.

The tribunal acquitted Gajewski, Gattineau, von der Heyde, Hoerlein, von Knieriem, Kuehne, Lautenschlaeger, Mann, Schneider, and Wurster. The remaining 13 defendants were given prison terms as follows:

<u>Name</u>	<u>Length of Prison Term (years)</u>
Ambros	8
Buergin	2
Bueteftisch	6
Duerrfeld	8
Haeffliger	2
Ilgner	3
Jaehne	1 1/2
Krauch	6
Kugler	1 1/2
Oster	2
Schmitz	4
von Schnitzler	5
ter Meer	7

All defendants were credited with time already spent in custody.

In addition to the indictments, judgments, and sentences, the transcripts also contain the arraignment and plea of each defendant (all pleaded not guilty) and opening statements of both defense and prosecution.

The English-language transcript volumes are arranged numerically, 1-43, and the pagination is continuous, 1-15834 (page 4710 is followed by pages 4710(1)-4710(285)). The German-language transcript volumes are numbered 1a-43a and paginated 1-16224 (14a and 15a are in one volume). The letters at the top of each page indicate morning, afternoon, or evening sessions. The letter "C" designates commission hearings (to save court time and to avoid assembling hundreds of witnesses at Nuernberg, in most of the cases one or more commissions took testimony and received documentary evidence for consideration by the tribunals). Two commission hearings are included in the transcripts: that for February 7, 1948, is on pages 6957-6979 of volume 20 in the English-language transcript, while that for May 7, 1948, is on pages 14775a-14776 of volume 40a in the German-language transcript. In addition, the prosecution made one motion of its own and, with the defense, six joint motions to correct the English-language transcripts. Lists of the types of errors, their location, and the prescribed corrections are in several volumes of the transcripts as follows:

- First Motion of the Prosecution, volume 1
- First Joint Motion, volume 3
- Second Joint Motion, volume 14
- Third Joint Motion, volume 24
- Fourth Joint Motion, volume 29
- Fifth Joint Motion, volume 34
- Sixth Joint Motion, volume 40

The prosecution offered 2,325 prosecution exhibits numbered 1-2270 and 2300-2354. Missing numbers were not assigned due to the difficulties of introducing exhibits before the commission and the tribunal simultaneously. Exhibits 1835-1838 were loaned to an agency of the Department of Justice for use in a separate matter, and apparently No. 1835 was never returned. Exhibits drew on a variety of sources, such as reports and directives as well as affidavits and interrogations of various individuals. Maps and photographs depicting events and places mentioned in the exhibits are among the prosecution resources, as are publications, correspondence, and many other types of records.

The first item in the arrangement of prosecution exhibits is usually a certificate giving the document number, a short description of the exhibits, and a statement on the location of the original document or copy of the exhibit. The certificate is followed by the actual prosecution exhibit (most are photostats,

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but a few are mimeographed articles with an occasional carbon of the original). The few original documents are often affidavits of witnesses or defendants, but also ledgers and correspondence, such as:

<u>Exhibit No.</u>	<u>Doc. No.</u>	<u>Exhibit No.</u>	<u>Doc. No.</u>
322	NI 5140	1558	NI 11411
918	NI 6647	1691	NI 12511
1294	NI 14434	1833	NI 12789
1422	NI 11086	1886	NI 14228
1480	NI 11092	2313	NI 13566
1811	NI 11144		

In rare cases an exhibit is followed by a translation; in others there is no certificate. Several of the exhibits are of poor legibility and a few pages are illegible.

Other than affidavits, the defense exhibits consist of newspaper clippings, reports, personnel records, Reichgesetzblatt excerpts, photographs, and other items. The 4,257 exhibits for the 23 defendants are arranged by name of defendant and thereunder by exhibit number. Individual exhibits are preceded by a certificate wherever available. Two sets of exhibits for all the defendants are included.

Translations in each of the prosecution document books are preceded by an index listing document numbers, biased descriptions, and page numbers of each translation. These indexes often indicate the order in which the prosecution exhibits were presented in court. Defense document books are similarly arranged. Each book is preceded by an index giving document number, description, and page number for every exhibit. Corresponding exhibit numbers generally are not provided. There are several unindexed supplements to numbered document books. Defense statements, briefs, pleas, and prosecution briefs are arranged alphabetically by defendant's surname. Pagination is consecutive, yet there are many pages where an "a" or "b" is added to the numeral.

At the beginning of roll 1 key documents are filmed from which Tribunal VI derived its jurisdiction: the Moscow Declaration, U.S. Executive Orders 9547 and 9679, the London Agreement, the Berlin Protocol, the IMT Charter, Control Council Law 10, U.S. Military Government Ordinances 7 and 11, and U.S. Forces, European Theater General Order 301. Following these documents of authorization is a list of the names and functions of members of the tribunal and counsels. These are followed by the transcript covers giving such information as name and number of case, volume numbers, language, page numbers, and inclusive dates. They are followed by the minute book, consisting of summaries of the daily proceedings, thus providing an additional finding aid for the transcripts. Exhibits are listed in an index that notes the

type, number, and name of exhibit; corresponding document book, number, and page; a short description of the exhibit; and the date when it was offered in court. The official court file is summarized by the progress docket, which is preceded by a list of witnesses.

Not filmed were records duplicated elsewhere in this microfilm publication, such as prosecution and defense document books in the German language that are largely duplications of the English-language document books.

The records of the I. G. Farben Case are closely related to other microfilmed records in Record Group 238, specifically prosecution exhibits submitted to the IMT, T988; NI (Nuernberg Industrialist) Series, T301; NM (Nuernberg Miscellaneous) Series, M-936; NOKW (Nuernberg Armed Forces High Command) Series, T1119; NG (Nuernberg Government) Series, T1139; NP (Nuernberg Propaganda) Series, M942; WA (undetermined) Series, M946; and records of the Brandt case, M887; the Milch Case, M888; the Altstoetter case, M889; the Pohl Case, M890; the Flick Case, M891; the List case, M893; the Greifelt case, M894; and the Ohlendorf case, M895. In addition, the record of the IMT at Nuernberg has been published in the 42-volume *Trial of the Major War Criminals Before the International Military Tribunal* (Nuernberg, 1947). Excerpts from the subsequent proceedings have been published in 15 volumes as *Trials of War Criminals Before the Nuernberg Military Tribunal Under Control Council Law No. 10* (Washington). The Audiovisual Archives Division of the National Archives and Records Service has custody of motion pictures and photographs of all 13 trials and sound recordings of the IMT proceedings.

Martin K. Williams arranged the records and, in collaboration with John Mendelsohn, wrote this introduction.

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Roll 4

Target 1

Volume 7, p. 2,110-2,498

Oct. 15-21, 1947

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NÜRNBERG

**CASE No. 6 TRIBUNAL VI
U.S. vs CARL KRAUCH et al
VOLUME 7**

TRANSCRIPTS
(English)

15-21 October 1947 pp. 2110-2498

Official Transcript of the American Military Tribunal No. VI in the matter of the United States of America against Carl Krauch, et al, defendants, sitting at Nurnberg, Germany, on 15 October 1947, 0930-1630, Justice Shake, Presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal VI.

Military Tribunal VI is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the court.

THE PRESIDENT: Mr. Marshal, are the defendants present?

THE MARSHAL: May it please Your Honors, the defendants are all present save the defendants Wurster and Hoerlein, absent due to illness.

THE PRESIDENT: Are there any preliminary announcements before we resume the introduction of evidence?

If not, the prosecution may proceed with the presentation of its evidence.

MRS. KAUFMAN: Mary Kaufman for the prosecution.

The prosecution offers as its Exhibit 877 - this is a document appearing in Document Book 48.

The prosecution offers as its Exhibit 877, Document NI-7672, which appears on page 1 of the English document book and page 1 of the German Document book. These documents consist of a series of letters from Rudolf Ilgner of Chemnyco to Reithinger of Berlin NW 7, VOWI, concerning the transmission of technical data from the United States. The first letter in this exhibit states, and I read from page 1 of both document books. This letter is dated January 1938, addressed to Dr. Reithinger of I.G. Farben Aktiengesellschaft:

JUDGE MORRIS: May I inquire what page you are reading from?

MRS. KAUFMAN: Page 1 of the English Document Book 48.

THE PRESIDENT: I think the page is omitted from the Judges' books. That's the trouble. I'll allow you to look at mine here.

We have an insert now.

MR. SPRECHER: Thank you.

MRS. Kaufman: The last paragraph of this letter states:

"As mentioned in the attached letter, should you desire any additional information on these reports or if you have any other requests, we shall be pleased to comply with your wishes. Very truly yours, Chemnyco, Inc., signed: Rudolf Ilgner."

The remaining correspondence of this exhibit consists of the transmittal of technical data.

The prosecution offers as its Exhibit 878, Document NI-7577, appearing on page 7 of the English and page 9 of the German. This document consists of two letters in which Chemnyco requests from the United States Government Offices information concerning the mineral industry of South East European countries and the USSR.

The prosecution offers as its Exhibit 878, Document marked NI-10645, appearing on page 9 of the English and page 10 of the German. This document is a cable dated 6 April 1936, from I.G. to Karwender of Chemnyco. I'd like to read this cable. I read from page 9 of the English and page 10 of the German:

"The Netherlands Purchasing Company of Standard inquired of Hoechst concerning delivery 50 tons Phenylarseuic Dichloride. We suppose utilization of insecticide. However since produce can be used also as war material it is questionable as to whether we may fill the order. We request therefore that you ascertain as discreetly as possible the

purpose of utilization. Cable back."

Signed: "Anilinfabrik."

The prosecution offers as its Exhibit 880, Document NI-10622, which appears on page 10 of the English and page 11 of the German. This document consists of a letter from Chemnyco to Ter Meer, dated 3 June 1938, concerning a conference held between Chemnyco, Dow and Goodyear. The following comment is made, and I quote the last sentence appearing on page 10 of the English and page 11 of the German:

"We thought it expedient to conduct the negotiations in such a way that we would continue to observe and become acquainted with Dow's and Goodyear's experiments."

The prosecution offers as its Exhibit 881, Document NI-10579, which appears on page 11 of the English and 12 of the German. This document consists of excerpts from Chemnyco's file on Buna rubber experiments. On page 12 of English and page 12 and 13 of the German, the Tribunal will find excerpts from a report prepared by Beller, a German technician on the staff of Chemnyco. This report was prepared on the basis of his observations of the rubber experiments conducted by large U.G. companies. The pages excerpted are intended merely to show the basis and extent of the observations of the experiments.

The prosecution offers as its Exhibit 882, Document NI-10556, which appears on page 16 of the English and page 16 of the German. This document contains excerpts from a Chemnyco file of visiting technicians who were sent by I.G. Farben to inspect and observe plants and factories in the United States.

The prosecution offers as its Exhibit 883, Document NI-7575, which appears on page 28 of the English and 29 of the German. This document, which is a letter dated 27 June 1938, from Pickhardt of Chemnyco to Wilson Meyer of

California, refers to a visit by Ziegler, head of the light metal division of I.G. Farben, and Ritter, head of the research laboratory for I.G., both located at Bitterfeld, to various airplane factories in the United States, both in the East and West. These visits were arranged by Chemnyco.

THE PRESIDENT: If counsel please. Certainly we have no objection or complaint as to the manner in which you are presenting these documents. You are doing it very briefly and very succinctly, but we do have a good deal of doubt as to the materiality of this evidence. It does seem to us that this is burdening this record with a lot of material that is of very insignificant, if any, probative value. We've granted some concessions at time here in the past on the representation that a lot of documents would be eliminated that were not deemed of importance. Not directing these remarks to you, but to the prosecution staff, we think that this whole first page of documents that are listed in our index, consisting of 1, 2, 3, 4, 5, 6, 7 documents just have no probative value whatever in this case, and we wish you would convey our observations to your staff and ask them if they cannot eliminate some of this surplusage and give us some documents that have some probative value.

I repeat again, that that is no criticism of your presentation.

MRS. KAUFMAN: Thank you, Your Honor.

I should like to make the statement at this time that the documents that have been submitted - the first series that has been submitted - have been submitted for the purpose of showing that an organization, sponsored and supported by I.G. Farben, was transmitting information to I.G. Farben for use by the Wehrmacht in their war plans.

THE PRESIDENT: I would just observe to that that in this small world in which we now live the free dissemination

of information is pretty generally observed among people and governments. It doesn't impress us as being very important to the showing of the sending of scientific data from people in industrial life of one country to another country, or the visits of people from one country to another. I may say that I am speaking for the Tribunal when I say this. We are quite thoroughly convinced that a whole lot of time is being consumed here with matters that have no importance at all with reference to the substantial questioned represented by this Indictment.

I say again that we are anxious to say that we do not say that with criticism to you. You may proceed with your presentation, which is entirely satisfactory to us, but we will appreciate it if you will call the attention of the prosecution's staff to the remarks made here in the record this morning.

MRS. KAUFMAN: May I make one more statement, or shall I proceed with the presentation?

THE PRESIDENT: Yes, do, certainly.

MRS. KAUFMAN: It is not the position of the prosecution that this data which was transmitted by Chemnyco to I.G. Farben and subsequently used by the Wehrmacht was data which was secured or procured under concealment or by secret efforts. Some of the evidence was data procured in this fashion. It is the position of the prosecution that I.G. Farben utilized secret sources, as well as public sources, for the procurement of data which was vital to the Wehrmacht.

THE PRESIDENT: Very well, you may proceed with your presentation.

of information is pretty generally observed among people and governments. It doesn't impress us as being very important to the showing of the sending of scientific data from people in industrial life of one country to another country, or the visits of people from one country to another. I may say that I am speaking for the Tribunal when I say this. We are quite thoroughly convinced that a whole lot of time is being consumed here with matters that have no importance at all with reference to the substantial questioned represented by this Indictment.

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MRS. KAUFMAN: May I make one more statement, or shall I proceed with the presentation?

THE PRESIDENT: Yes, do, certainly.

MRS. KAUFMAN: It is not the position of the prosecution that this data which was transmitted by Chemnyco to I.G. Farben and subsequently used by the Wehrmacht was data which was secured or procured under concealment or by secret efforts. Some of the evidence was data procured in this fashion. It is the position of the prosecution that I.G. Farben utilized secret sources, as well as public sources, for the procurement of data which was vital to the Wehrmacht.

THE PRESIDENT: Very well, you may proceed with your presentation.

MRS KAUFMAN: The prosecution offers as its next Exhibit, 884, Document NI-1147, which appears on page 29 of the English document book and page 30 of the German document book. This document consists of two letters, the second one of which is a letter from Ziegler, who was referred to in the prosecution's previous exhibit, to Fischer of I. G. dated 20 November 1939. One of the uses to which visits by I. G. people were put is demonstrated by this letter. I read the first paragraph which appears on page 31 of the English and page 34 of the German.

"My Dear Fischer:

"Regarding your phone call last night, I have tried again here to get hold of maps and charts to ascertain the position of the British factories for light-metal semi-finished articles, decisive for the aircraft industry over there. Unfortunately, however, only ordinary touring maps were available. But I want to give you at least the exact addresses of the factories in question so that, with the help of better maps and charts, additional information may possibly be gained from your interested parties. In spite of numerous visits, which, however, were mostly made in a saloon car with driver, sketches made from memory are unreliable."

A copy of this letter was sent to von der Bey who, as the prosecution will establish at a later date, was one of the people within I. G. responsible for the transmission of information to the German High Command

The first letter of this document, on page 29 of the English and page 31 of the German, is dated five days later, and is from von der Bey to the Reich Air Ministry. I read the fourth paragraph. This appears on page 31 of the German document book:

"On the enclosed ordnance survey map of Swansea I have marked with a blue circle the building which houses the magnesium factory, the power station belonging to it lies on a hill to the North-East and is shaded in blue.

"Furthermore, I had made enquiries regarding the processing works with which I had less dealings and I can make the following statements."

And then follows a description of a Northern Aluminium factory in

England.

The letter states:

"The factory is situated in the open country on the outskirts of the town and is a modern steel, glass and cement building which can easily be recognized. It is the largest light-metal rolling mill in England."

The prosecution offers as its Exhibit 885, Document NI-10646, which appears on page 33 of the English and 37 of the German. This document is introduced to show that Chemnyco not only facilitated and arranged for visits of German technicians and experts, but also performed the same service for the Japanese. This is a letter dated May 1937, from an I.G. Farben subsidiary in Tokyo to Chemnyco in which Chemnyco is requested to assist in arranging for an inspection by three Japanese chemists and engineers of the Methane Cracking Plant of the Standard Oil Company of America.

The prosecution offers as its Exhibit 886 an affidavit executed by Miss Mayer certifying to a series of maps which were taken from the files of Office of the United States Alien Property Custodian, Department of Justice.

The prosecution offers as its Exhibit 887, Document NI-10423, which appears on page 35 of the English document book and 39 of the German book. This exhibit contains only one map of those listed in the previous exhibit since the other maps do not lend themselves to any form of reproduction within the facilities we have available in the court house. This map, which has been reproduced, is entitled: "West India Islands and Approaches to the Panama Canal."

DR. BACHEL: Your Honor, even if I believe that these documents, and especially the last Exhibit 878, which is the map, is not relevant, I still, since the prosecution is offering it, I must point out that in this case too the index is not complete since, in the index it's only mentioned "Approaches to the Panama Canal" but the map is "West India Islands and Approaches to the Panama Canal", it should rather be called the latter. This seems essential to me and I ask you please to change

the index accordingly.

THE PRESIDENT: We have noted the objection.

Counsel may proceed.

MRS. KAUFMAN: The prosecution offers as its Exhibit 888, Document NI-11197 which appear on page 36 of the English and page 40 of the German. This is a letter from I.G. Farben, Office of Sparta I, to defendant Krauch, Schneider, von Knierem and Buettelisch, dated 29 July 1940, and a copy of a statement transmitted with the letter which was prepared for the Reich Ministry of Economics and which describes the value and services performed by Chemnyco. The document states, at page 37 of the English and 42 of the German - I read from the middle of the page of 37. I don't know where it appears in the German.

"With regard to the organization of Chemnyco it should be stated from the outset that the significance of the tasks assigned to Chemnyco caused I.G. to let Chemnyco have some experienced specialists. The management of Chemnyco is today in the hands of Dr. Karl Hochschwender, Dr. Carl Mueller and Dr. Rudolf Ilgner, who used to work for us, as well as of an American jurist. For several compelling reasons, the Chemnyco is however a purely American independent company whose function is merely to advise I.G. The gentlemen mentioned above have left I.G. and are not connected with it through any contracts.

And then I read from the paragraph, after #1, on the same page:

"Chemnyco has to follow technical developments in the fields which interest us carefully and to report to us currently about the newer developments so that we are enabled to check the direction of our work and the state of technical development achieved by us all the time. This particularly applies and is of increased importance with regard to the processing of oil; in this connection very extensive development work is naturally being done by the large companies in the mineral oil country U.S.A."

And at the bottom of page 37, and I believe the middle of page 43 of the German book, the following statement appears:

"It is obvious that systematic reports on this with technical details are of decisive importance development in Germany."

And the final statement of this document which appears on page 39 of the English and 47 of the German states:

"We do not wish to fail to mention that in the United States Chemnyco has been exposed to various official investigations into its activities and the kind of its connection to I.G., and in this connection would like to stress the confidential character of the above information."

The Prosecution offers as its Exhibit 889 Document NI-7983 which appears on page 41 of the English and page 48 of the German. This document contains the docket entries in the case of United States versus Rudolf Ilgner, the case in which Ilgner was prosecuted for the destruction of Chemnyco files.

The Prosecution offers as its Exhibit 890 Document NI-10925 which appears on page 43 of the English and page 50 of the German. This is an excerpt of a study of the Foreign Economic Administration's Drafting Committee on the treatment of German participation in international cartels. As is indicated in this document, Chemnyco was not the only agent through which I.G. obtained information for its war purposes, and I read at page 43 of the English and 50 of the German. The second sentence states:

"In addition, however, the German participants in international cartel arrangements permitted the Nazi Government to employ their foreign offices as centers for espionage activities.

"In evaluating the extent of I.G. Farben's usefulness as an espionage agent of the General Staff, it should be borne in mind that in America, for example, through the American I.G. Chemical Company (now General Aniline and Film Corporation) the I.G. Farben was a member of the Board of the National Industrial Conference Board, an economic research organization of the American industry. Representatives of the United States War and Navy Departments were also members of this board. In highly secret sessions, these representatives from time to time informed the Board on the status of the American military and naval forces. These sessions, as it turns out, were in fact open to the German General Staff through the presence of the head of the American I.G."

The purpose of the next series of documents is to establish that another source of information supplied by I.G. to the Reich authorities for the purpose of planning and waging of aggressive war was the I.G. liaison men known as "Verbindungsmaenner" who were

located in every important country abroad. The following four documents show that the institution of the "Verbindungsmannor" was established to insure the successful transmission of information necessary to carry out the war aims of the Four Year Plan.

The next document appearing in Document Book XXXXVIII has been offered in evidence as Prosecution's Exhibit 762. It is marked NI-1570 and appears on page 45 of the English and page 52 of the German. This document consists of a series of correspondence in 1936 and 1937 concerning the transmittal of an East Asia report by Ilgner, which was prepared on the basis of one of the defendants Ilgner, frequent trips abroad, to the Under Secretary of State and Chief of the Reich Chancellory, and transmittal by Ilgner to the Under Secretary of State and Chief of the Reich Chancellory, and transmittal by Ilgner to the Under Secretary of State, Lammers, of a memorandum on the promotion of exports within the framework of the Four Year Plan. I should like to quote from one of these letters which was written on 15 April 1937 by Max Ilgner to Lammers. This letter appears on pages 45 and 46 of the English and 52 and 53 of the German, at the bottom of page 45 of the English: "Very esteemed Under-Secretary of State Lammers,

"Because some time ago you showed a special interest for my East Asia Report, I am taking the liberty of transmitting to you enclosed a written presentation of facts on the promotion of exports within the framework of the Four Year Plan. I have prepared this presentation in pursuance of thorough discussions with the chairman of the Commercial Policy Committee of the National Economic Chamber, Under-Secretary of State Dr. Trendelenburg. This was prompted by his suggestion to make a presentation as to how the experiences and energies of private economy could be more effectively used for a methodical cooperation in the efforts of strengthening Germany's foreign trade position.

"As agreed upon with Under-Secretary of State Trendelenburg, I have, for the time being, made this presentation available only to

you, to President Schnacht, to Under-Secretary of State Possee, to Herr Brinkmann, to Ministerial Director Ritter, to Colonel Loeb, to Colonel Thomas and to President Pietzsch.

"I, of course, fully realize that the proposals I am making can in no way claim to be complete or perfect. Nevertheless, I considered it in order for me to condense in writing the observations which I could personally make in recent years in almost all of the more important export markets.

"Inasmuch as I have also covered organizations of the Party (economic experts) in my presentation, and having referred to things which the regional groups and local groups -- these are Party groups -- "in the various countries are especially interested in as I know, (German schools and German newspapers appearing abroad) I should be very much obliged to you, very esteemed Under-Secretary of State, if you would let me know whether you believe that I should transmit this presentation also to Reich Minister Rudolf Hess, that is, whether you believe he might be interested in it."

This is signed by Max Ilgner.

The memorandum on page 52 of the English and 65 of the German describes the reasons for particular intensification of export promotion, and Ilgner states at page 52 of the English and 65 of the German:

"the decisive importance which makes a particularly intensive promotion of exports a necessity arises at the present time from the fact that it has the task of providing the foreign exchange needed for carrying the Four Year Plan into effect. Export promotion, Four Year Plan, armaments and food can, however, only be considered within a total frame and -- as the Four Year Plan bears out logically-- must each be brought into perfect accord with the other under a masterly control of the entire scheme. In line with the directives given, it is at the moment decisive that the proceeds of foreign exchange from exports be increased sufficiently to permit importing of all raw

materials which are necessary for carrying the Four Year Plan into effect, fully and successfully, and, moreover--until the positive effects of the Four Year Plan begin to affect our own creation of raw materials favorably -- to import these raw materials which must be imported for simultaneously carrying on increased rearmament irrespective of the foreign exchange needed for food."

I should like to read the last sentence on page 52 of the English and I believe it is the last two lines of the German, page 66:

"For this very reason, however, it is necessary to augment efforts especially to win these markets and this, apart from such energy, tenacity and system calls for a comprehensive knowledge of these markets."

As the Tribunal reads this document, it will observe that the entire document is geared to meet the foreign exchange and raw material requirements of Nazi Germany's rearmament program. At page 65 of the English and page 90 of the German Ilgner sets forth a detailed program for procuring information to meet the demands of Nazi Germany for foreign exchange and raw materials. At page 66 of the English and 93 of the German Ilgner expresses his dissatisfaction with the commercial attaches of the Germany embassies abroad and makes proposals for remedying that defect.

In conclusion may I respectfully refer the Tribunal's attention to page 68 of the English and 97 of the German to show that the perspective and purpose of the program as set forth in this memorandum was the furthering of the German cause.

DR. GIERLICH: Gierlich for Geheimrat Schmitz.

The quotation that was just read on page 65 of the English is misleading because in the German original it says only "for the successful carrying out of armament" and in English it says "for the increased carrying out of rearmament". That is not contained in the German original. Please rectify that mistake.

MRS. KAUFMAN: At the moment I have no recollection as to the quote that I made. However, if the Defense Counsel points out that the

statement is, "rearmament" and not "increased rearmament", Counsel for the Prosecution accepts that correction.

The next document to which the Prosecution makes reference appears in Document Book XXXIV. It is Prosecution's Exhibit 776 and is marked NI-7605. It appears at page 18 of the English and page 18 of the German. This is an affidavit by Walter Jacobi, an I.G. Farben official, until the Fall—

THE PRESIDENT: Can you give me the reference again, please?

MRS. KAUFMAN: Yes. It is Document Book XXXIV, page 18 of the English and page 18 of the German.

THE PRESIDENT: Thank you.

MRS. KAUFMAN: It is marked NI-7605. I apparently do not have the correct reference to the German page number of this document, and, therefore, since I plan on reading from the document, I will read slowly enough for the record. This document is an affidavit by Walter Jacobi, an I.G. Farben official until the Fall of 1935. From this affidavit it appears that Ilgner's ideas with respect to providing the Nazi Government with information from abroad through I.G. contact men existed prior to 1937. Jacobi states at page 19 of the English, and I read paragraph 4:

"Sometime in the Summer of 1935 after Ilgner's return from his trip to the Far East, Ilgner stated that he had learned that the German official institutions abroad were not obtaining as much information about the respective countries they were located in as they should have, and proposed that I. G. supply the deficiency by setting up confidential agents known as "Vertrauensmaenner" in all of the countries abroad. Some of the members of the Commercial Committee were opposed to this proposal on the grounds that they saw no valid business reasons for such operations. The proposal was submitted to us in the typical Nazi ideological language containing the Fuehrer Principle. At that time I asked Ilgner why I. G. should undertake to supply this information stating, 'Are we I. G. or are we the German Government?'

"In questioning Ilgner as to the real purpose of such proposal which did not appear to me to have business justification, he informed me that the Foreign Office and the Auslands Organization, the Foreign Office of the Party, were interested in obtaining information from abroad to supplement their own inadequate sources."

The next document appearing in Document Book XXXVIII marked NI-653, on page 76 of the English and page 115 of the German, has been previously introduced as Prosecution's Exhibit 361. This is a letter from the defendant Schnitzler to Bosch on the 12th of August 1937 in which we note that I. G. proceeded to act upon the program recommended by Ilgner to State Secretary Lammers. Bosch states that "at the suggestion of and in accord with Geheimrat Schnitz, we intend" -- I am quoting -- "to establish a closer contact between the commercial directors of I. G. in the following manner", and he notes that, and I read from page 76 of the English and 115 of the German:

"Today the foremost of all these questions is the boosting of export which is not only acute as far as the levying of the tax or the equalization of the losses resulting from individual business transactions is concerned, but in connection with the execution of the Four Year Plan it has been positively stated that today boosting of exports has priority

over everything else, to a certain degree even over defense politics."

The defendant Schnitzler proposes a cooperation of the leading commercial people and to achieve that purpose the formation of a commercial committee. Among the participants listed in the Commercial Committee are the defendants Schnitzler, Haefliger, Ilgner, Mann and Oster.

The Prosecution offers as its Exhibit 891 Document NI-2640 which appears on page 79 of the English and 117 of the German. I believe a page was missing from the English document book and has been inserted between pages 79 and 80.

If it please the Tribunal, I should like to refer to this as page 79a. This exhibit contains a discussion of the organization and fields of activity of I. G. Berlin Northwest 7 prepared by the Bureau of the Commercial Committee, an office entrusted with the preparation and execution of the work of the newly created Commercial Committee. In discussing the organization and fields of activity of I. G. Berlin Northwest 7, at the bottom of page 79a of the English and page 120 of the German the report states:

"The world's markets for raw materials needed close watching in connection with the Four Year Plan", and in describing the functions of the Bureau of the Commercial Committee the report states at page 80 of the English and pages 121 and 122 of the German -- I am reading from the middle of the large paragraph appearing on page 80:

"The main duties of this office consist of an examination of problems of a general nature connected with our efforts to increase exports and of extending export business cooperation in the execution of problems abroad. It is, furthermore, entrusted with summarizing information received from the information services abroad and with transmitting this information to the individual offices of the I. G. and of the syndicate."

The Prosecution offers as its Exhibit 892 -- I withdraw that.

The next document appearing in Document Book XXXXVIII has been

introduced as Prosecution's Exhibit 362. It is marked NI-4927 and appears on page 82 of the English and page 123 of the German. This document consists of minutes of the Commercial Committee meeting on 20 August 1937. Ilgner's program as set forth in the letter and memorandum to Lammers was discussed and acted on by the Commercial Committee at this meeting. Among those present were the defendants Schnitzler, Haefliger, Ilgner and Mann. The minutes note and I read from page 83 and 84 of the English, and 123 and 124 of the German:

"As the present situation with regard to raw materials" -- this is in the end of the last paragraph appearing on page 83 of the English -- "and foreign exchange made it necessary for increased attention to be paid to all these activities, it became essential to insure still closer cooperation in future. In this connection all participants welcomed and accepted a proposal made by Dr. Ilgner to the effect that the Commercial Committee should in future share the responsibility for the general commercial and economic problems to be handled by the Berlin central offices."

And then on page 84 of the English and 124 of the German there is this statement:

"There was general agreement that, owing to the ever-increasing tendency towards industrialization in the world, it was imperative for the I. G. foreign organizations to have in all the larger towns abroad such persons as *Verbindungsmaenner*" -- or liaison men -- "who, by virtue of the positions they held and their knowledge of prevailing conditions could judge correctly the developments of their own country and give advice to the management at home accordingly. For that reason the Commercial Committee thinks it advisable that the former institution of the Zefi-confidential agents, who were already very active in this direction, be given increased consideration in their extended capacity as *"I. G. Verbindungsmaenner"*."

The next document appearing in Document Book 48, which is marked NI-6486, will be omitted by the Prosecution at this time in the interest of expediting the proceedings. Document NI-5744, which appears next in the document book, has been offered as Prosecution Exhibit 371. It appears on page 95 of the English and 141. of the German, and consists of a meeting of the department heads of Northwest 7 at which the Defendant Ilgner presided and which was attended by the Defendant Gattineau, in which it is noted that the appointment of Verbindungsmaenner would be made ~~only~~ through the Commercial Committee. This meeting also makes note of the fact that the chairman of the Vorstand was to be kept fully informed of activities by the transmittal of minutes of Northwest 7 Department Meetings by the transmittal of reports on the activities of Northwest 7 departments and by the transmittal of all data sent to the Commercial Committee.

The Prosecution next refers to a document appearing in Document Book 17. This document is marked NI-6701 and has been introduced as Prosecution Exhibit 773. It appears on page 33 of the English. Page 64 of the German. This is an affidavit executed by the Defendant Ilgner and it contains a discussion of the purpose of a trip which Ilgner made to Latin America in 1936, and excerpts from a report of this trip which was prepared by the office of the Commercial Committee on the basis of Ilgner's notes and observations. The report is concerned with methods of strengthening Nazi Germany's position in South America. Ilgner makes observations concerning certain weaknesses, and proposes remedies. He discusses in some detail the institution of the system of appointing Verbindungsmaenner in each of the important countries and the functions to be performed by these

verbindungsmaenner. It is apparent from this report that I.G. Verbindungsmaenner were to coordinate the program of Nazi Germany abroad and to carry out the objectives of this program. The tasks assigned to Verbindungsmaenner in this document vary from an organized transmittal of information concerning the respective countries of the Verbindungsmaenner to promoting the pro-Nazi sentiment and action in these countries through the press, German institutions abroad, and in other ways described in this report.

The Prosecution offers as its Exhibit-- No, I am sorry. I should like to refer to a document appearing in Book 45. However, I will not quote from it; I will just discuss it. It has been marked Prosecution Exhibit 363, and is noted as Document NI-4959. It appears on page 5 of the English and 7 of the German. The Tribunal will recall that at about this time--10 September 1937--it was decided at a Commercial Committee meeting that all men going abroad should be made to realize that it was their special duty to represent National Socialist Germany, and were reminded to contact the local or regional group of Germany Abroad, and to cooperate with them in their activities. And in the previous exhibit referred to by the Prosecution Ilgner's plans concerning such cooperation are set forth.

Prosecution offers as its Exhibit 892, Document marked NI-6122. It appears on page 97 of Document Book 48 and 148 of the German. This document consists of correspondence in November 1938 concerning the appointment of Verbindungsmaenner in Spain. The letter to the appointee Mr. Birk indicates the qualifications demanded of Verbindungsmaenner. The Prosecution offers as its Exhibit 893 Document NI-5621 which appears on page 100 of the English

and 152 of the German. This document consists of minutes of a Commercial Committee meeting presided over by the Defendant von Schnitzler and attended by the defendants Schmitz, Haefliger, Ilgner and Mann. One of the uses to which the Verbindungsmaenner were put is indicated on page 100 of the English and 152 of the German.

DR. BACHEM (Counsel for defendant Ilgner): Your Honors, from the report it can be seen that it deals with information of the leading gentlemen of Farbenindustrie. In the Index, however, only the words "prominent individuals" are stated, and this might create the impression that these are official, prominent persons. Therefore, please place a question mark next to the Index.

THE PRESIDENT: Thank you.

MRS. KAUFMAN: In connection with the problem just raised by the Defense counsel, I should like to read from page 100 of the English and 153 of the German:

"Appointment of I.G. Liaison Agents (Verbindungsmaenner) Following the discussion of some actual instances, Dr. Ilgner pointed out that members in responsible positions, when travelling abroad on other than merely routine business, must under no circumstances fail to contact I.G. Liaison Agents and to keep them informed. Such procedure appears necessary in view of the increasingly more involved and intimate relations with foreign countries, and particularly in view of the tendency, all but universally manifest, toward nationalization and industrialization."

"Under these circumstances it would make things easier for members in responsible positions travelling abroad to have on hand, in the greatest possible number of countries, an expert (The I.G. Liaison Agent) capable of supplying information on current trends and tendencies.

No I.G. Liaison Agent will be able to do so unless he received adequate advance notice. Methods of selection of I.G. Liaison Agents are such as to guarantee confidential treatment of such matters."

"Dr. Schnitzler undertook to report on the matter to the Central Committee accordingly."

May I refer at this time to Document Book 45? I refer to Prosecution Exhibit 808 which is marked NI-7984 and appears on page 53 of the English and 76 of the German. This document consists of excerpts from a report on Latin America made 30 September 1938 to the Commercial Committee by Overhoff, a Farben official, concerning methods of combatting anti-Nazi sentiment in South America. In discussing Verbindungsmaenner, Overhoff states, and I read from page 53 of the English and 82 of the German:

"A further point to be borne in mind in this connection is the need for precautions to prevent our representatives abroad from meeting difficulties resulting from the nature of the questions submitted. Some of them are of delicate nature affecting, as they do, the interests both from the point of view of policy and war economy, of the countries concerned. As people are getting a little sensitive in this respect--even in Latin America--no documents should be found in the offices of the Verbindungsmaenner or their assistants which could possibly hang them or ourselves. This was another point which called for our consideration on the occasion of the May rising in Brazil."

Prosecution offers as its Exhibit 894, Document, NI-6077. It appears on page 102 of the English and 157 of the German. This document consists of minutes of a Commercial Committee meeting held on 7 October 1938. Overhoff's report was discussed at this meeting. The minutes state--and I read from page 103 of the English and 159 of the German, under the sub-title: "Latin-America

(Lecture Dr. Overhoff)"

"Dr. Overhoff reports in detail on the impression gained on his last journey with special reference to the situation brought about by the new political and economical offensive of the United States of America. The questions mentioned in this connection: the Press, antidumping, Argentina propoganda and German re-imigration, are to be followed up accordingly."

And then on page 104 of the English and, I believe, 160 of the German, the last two paragraphs of Item 6 state: "The quick dispatch of assistants to the I.G. Verbiidungsmaenner in the more important South American countries is an urgent necessity. Apart from this, it is also desirable that with regard to the projects of industrialization, suitable technicians should also be sent to South America for a longer stay."

"In view of the political situation in Latin America, reference is again made to the necessity for extreme caution in correspondence with our agencies."

Document marked NI-1137 has been previously introduced as Prosecution Exhibit 156. It appears on page 196 of the English and 162 of the German, and is a letter from the Legal Department of I-G., Berlin, dated 6 November 1937 to the Legal Department in Frankfurt, and contained an enclosed memorandum which indicates that precautions concerning the treatment of confidential correspondence with representatives abroad were taken as early as 1937.

Prosecution offers as its Exhibit 895, Document marked NI-4242 which appears on page 110 of the English and 165 of the German. This is a memorandum dated 19 September 1939 by the Legal Department of I.G. Farben to members of the Dyestuffs Committee concerning methods of handling confidential correspondence overseas.

DR. BACHEM (Counsel for defendant Ilgner): In regard to the last document Exhibit 895, I should merely like to point out that in the German text there is a wrong signature under the document. The document is actually signed by Dr. Kuepper — and not by Dr. Ilgner, as can be seen from the original.

THE PRESIDENT: That is not a very important consideration from the standpoint of the Tribunal because we do not see the German text, but perhaps counsel for the Prosecution can aid you in getting your own book straightened out.

DR. BACHEM: Excuse me, Mr. President, I don't know what the signature in the English text is — whether it is Ilgner's or not. It is possible, but I do not know.

THE PRESIDENT: Very well. We will check that.

MRS. KAUFMAN: May the Prosecution take up this question in conference and then —

THE PRESIDENT: Yes, that is satisfactory. However, where the matter is of the importance as involving the signature of someone, please do not overlook calling it to our attention so that we get a correct document before us. Very well.

MRS. KAUFMAN: The Prosecution offers as its Exhibit 896, document marked NI-8644, appearing on page 112 of the English and 117 of the German. This is another memorandum concerned with the question of confidential correspondence and methods of treating that question.

The Prosecution offers as its Exhibit 897, Document marked NI-1130, which appears on page 118 of the English and 175 of the German. This is a confidential letter sent by messenger from the German envoy Moraht of Uruguay to Torhaar of WIPO, and an enclosed note with respect to the Embassy's wishes concerning I.G.'s correspondence overseas. This note contains some indication as to the contents of the confidential correspondence concerning which I.G. took the precautions indicated in the preceding exhibits.

DR. BACHEM: Please excuse me, but will you place another question mark next to the Index where one might conclude that it concerns an affair of Farben alone, but in reality the memorandum in the document book is of a general nature and does not refer to Farben only.

THE PRESIDENT: Very well.

MRS. KAUFMAN: May I read this document to the Tribunal? I read from page 118 of the English. The page from which I read was inserted subsequent to the making up of the document books, and I do not know if you have it. It is a document that comes after page 118 of the English and is marked "Note."

"Many firms still tend, according to the experience submitted here, to leave out of consideration the viewpoint that the enemy, or the neutral consorship in league with the enemy, also reads their correspondence. It is probable that, just now, after our newspapers have dealt in detail, and are still partly doing so, with the proceedings of the Bolivian Government against our ambassador in La Paz, the confiscation of German courier baggage in Argentina and many encroachments on the part of North America against the Spanish-

American States, they will give full rein to their indignation in letters to their private or business friends and speak their minds unfavorably, concerning the internal political (constitutional or administrative) conditions of the state in question, will talk of corruption and USA-bondage or express the wish that they may one day be able to discipline these states in the German way. Such remarks must at all events be discontinued now. "

"The important thing is that we furnish the USA no material for the assertion that Germany is preparing an attack in South or Central America through subversive activities (Fifth column, etc.) The German firms should therefore say nothing in their letters to South and Central America which could in any way let the conclusion be drawn that we intend to stage anything military or to step out of our reserve on the basis of our philosophy of life through meddling in the internal conditions of the individual Spanish -American states."

And the note concludes: "In so far as the purpose of the correspondence necessitates communications which might be wrongly understood by the censor, the firms must send their communications via the Foreign Office."

This note was sent to WIPO of I.G. Farben with a request that WIPO influence the firm of I.G. Farben on the line indicated in the note.

JUDGE MORRIS: Could you give me the date of the note, or when it was supposed to have been written?

MR. KAUFMAN: The letter to WIPO transmitting the note is dated 18 August 1941.

JUDGE MORRIS: The note is supposed to have accompanied the letter?

MRS. KAUFMAN: The note accompanied this letter.

The next document appearing in Document Book is 6646, and consists of an affidavit which the Prosecution will omit at this time in the interests of expediting the proceedings.

The next document which the Prosecution would like to discuss appears in Book 46. This document is marked NI-9512 and appears on page 89 of the English and page 104 of the German, and has been introduced as Prosecution Exhibit 840. This is an affidavit executed by a Farben employee Noack who was employed in WIPO of Berlin NW-7 until August 1939. He discusses in this affidavit some of the functions of WIPO with respect to its liaison with the government agencies concerning reports of I.G. Verbindungsmaenner. He states at page 90 of the English and 106 of the German:

"I.G. Verbindungsmaenner. Even before I joined I.G. there were I.G. Verbindungsmaenner; as far as I can judge one has to differentiate between two types. In the individual cities abroad, where I.G. sales departments existed, Verbindungsmaenner were appointed who continually made reports on a broad basis. These tasks were to be entrusted to especially qualified men who had received their training in Berlin NW 7. In most cases suitable men who were resident there - - - - - were entrusted with such tasks, until sufficiently trained men could be provided. The reports of these Verbindungsmaenner had nothing to do with the sales reports and reports by the I.G. Foreign Agencies. The aim was the appointment of I.G. Trade Attaches, as I should like to call them, who were to report news on a wide basis, beyond the information hitherto reports (Politics, Economic Policy, Defense Policy, Currency Policy, International Conditions, and other interesting subjects.) Whether these reports came in regularly depended on the men appointed. The extent to which these reports were kept secret within the WIPO varied according to the nature of the reports. Of course there were reports and communications which were not distributed openly. Dr. Gattineau and Terhaar handled particularly important communications of various kinds personally."

The Prosecution would like to refer to the next document appearing in Document Book 46. It is marked 0558, and appears on page 94 of the

English and 111 of the German. It has been introduced as Prosecution Exhibit 841. This is a second affidavit executed by Noack. Noack in describing WIFO's contact with the Intelligence Department of the German High Command states that already in 1937 reports of Verbindungsmaenner were transmitted by the Defendant Gattineau to Major Bloch, of the Intelligence Department of the OKW. Noack also states that sometimes the Bureau of the Commercial Committee which received the Verbindungsmaenner reports transmitted reports to the Intelligence Department of the OKW.

I should like to make one further reference to a document which has previously been introduced. However, it is not necessary to find that document; it is Prosecution Exhibit 26 which appears in Document Book 44, and is marked NI-4833, and appears on page 14 of the English and 11 of the German. This is an affidavit executed by the Defendant Gattineau. In this affidavit Gattineau states that Verbindungsmaenner reports were transmitted to various military and government offices which received VCWI reports. The Prosecution offers as its Exhibit 898 Document NI-7081, which appears on page 133 of the English and 191 of the German.

DR. HOFMANN (Counsel for Defendant Gattineau, in the absence of Ascheneuer.)

Since the document of the Affidavit Gattineau has been mentioned, I should like to point out again that the recall and the revocation of that affidavit has been submitted at the same time.

MRS. KAUFMAN: Both documents are in evidence, the alleged recall which counsel referred to and the affidavit itself; and there is nothing before the Tribunal now the document is in evidence.

MR. AMCHAN: If Your Honors please, in addition, this Gattineau affidavit, this is the third time defense counsel has raised the same point. The first time when we offered it in evidence, they raised the question of duress to that Gattineau affidavit, and the third time, he is bringing up the same matter.

THE PRESIDENT: As the Tribunal remembers the state of the record, the original Gattineau, and the subsequent Gattineau affidavits are both in evidence. Is that right, Mr. Secretary?

THE SECRETARY GENERAL: Yes.

THE PRESIDENT: Then since this is only a reference to an exhibit in evidence the objection would not appear to be well taken. The weight to be given to the evidence, the explanation that may be made on behalf of the defendant will be properly a matter of defense. The objection is overruled.

MRS. KAUFMAN: The last document appearing in Document Book 48 is offered as Prosecution's Exhibit 898, and is marked NI-7081. It appears on 133 of the English and 191 of the German. This document consists of a letter from an I.G. Farben agency in Shanghai, to Weibel in Frankfurt, enclosing a report about the political situation written by the I.G. Verbindungsmann Haas in China, and also contains the report.

The report contains a political picture of the Japanese war in China, and an evaluation of the military strength of both China and Japan, the morale of both nations, military relationships with England, the United States and Russia, and so on.

THE PRESIDENT: That concludes the offer of the documents in Book 48. The Tribunal at this time will arise for its morning recess.

"(Court in recess at 1103)"

THE MARSHAL: The Tribunal is again in session.

MR. SPRECHER: With the permission of the Tribunal, we would like to interrupt the presentation of documents only for a very brief time in order to bring the affiant, Dr. Paulmann before the Tribunal. This is done at the request of Dr. Nolte, and with the consent of the counsel also for Dr. Lautenschlaeger.

THE PRESIDENT: The Marshal may escort the witness to the witness stand.

MR. SPRECHER: There is only one affidavit in question, Your Honors. It is Exhibit 398, which is Document No. NI-9264. That is found in Document Book 15, page 138 of the English and 161 of the German.

(DR. HUGO RICHARD PAULMANN, a witness, took the stand and testified as follows:)

BY THE PRESIDENT:

The witness will remain standing, raise his right hand, say "I", and repeat his name. Repeat this oath after me:

A. I, Dr. Hugo Richard Paulmann.. swear by God, the almighty and the Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath)

THE PRESIDENT: The witness may be seated.

DIRECT EXAMINATION

HUGO RICHARD PAULMANN

BY MR. SPRECHER:

Q. Will you state your full name for the record once more, please.

A. Dr. Hugo Richard Paulmann.

Q. What is your present address, and your present profession?

A. Oppeln, Friedenbergstrasse. I am a director.

Q. What was your prior address before the German collapse?

A. That was the same address.

Q. And what was your position in I.G. Farben before the collapse?

A. The same.

Q. Witness, you have a copy of Exhibit 398, which is NI 9264, and you have discussed that with Dr. Nelte this morning; is that correct?

A. Yes.

MR. SPRECHER: No further questions.

THE PRESIDENT: The defense may cross-examine.

CROSS EXAMINATION

DR. HUGO RICHARD PAULMANN

BY DR. NELTE: (counsel for the Defendant, Professor Hoerlein:)

Q. Dr. Paulmann, in your affidavit of July, 1947, you have testified, and I quote:

"The main pharmaceutical conference, which in the table of organization of I.G. was considered the highest-level committee of the Pharmaceutical Department, consisted exclusively of Vorstand members, and of titular directors from the Technical, Commercial, and Advertising fields."

In that connection would you tell me whether the words, "highest-level committee" are intended to indicate that participants in that conference, by virtue of their position as members of the Vorstand, and directors, held a high rank or do you mean to say that the main conference had the right to check decisions of all other pharmaceutical conferences in the technical, commercial, and advertising field and if necessary to rescind them? Would you please first answer question 1A? I repeat, do you want to express that the words, "highest-level committee" means that you were concerned with the representatives holding a high rank within the Vorstand and the directorate; the second question. Did the main conference have the right to check or rescind the decisions of other conferences?

A. No.

Q Was the independence of the sales combine initiated by the late director Prof. Duisberg and were the pharmaceutical laboratories and plants in Elberfeld, Leverkusen, and Hoechst, which belonged to the works combines Lower Rhine and Maingau dissolved by the Pharmaceutical main conference?

A No.

Q Would it have been possible for the pharmaceutical main conference to decide differences of opinion between the technical and commercial participants by taking a vote?

A No.

Q What would have had to happen in a case like that?

A According to my opinion, this matter would have had to be brought before the Vorstand.

Q You furthermore stated in your affidavit, and I quote:

"The main conference served mainly to maintain contact between the individual plants of the I.G. and it also served as a mutual exchange of information."

By plants of the I.G., do you include in this connection the sales combine in Leverkusen?

A Yes.

Q Was the mutual exchange of information handled in such a manner that every participant in the conference mainly reported about matters which had occurred within his field of work since the last main conference or even during a longer period of time, and were you always concerned with a retrospective report to a great extent?

A Yes.

Q Do you think that it is a correct definition to say that eight Vorstand members of I.G. made reports of an informative character to the pharmaceutical main conference in Fernsberg? The statement I refer to reads, and I quote:

"The pharmaceutical main conference was a meeting of all directors of

the pharmaceutical departments of Eiberfeld, Hoechst and Leverkusen. Scientists, manufacturers, advertising men and commercial people under the chairmanship of Professor Hoerlein. It accepted reports on new products, the testing of which had been concluded in medical laboratories, as well as on results regarding products which were still being tested clinically. It made decisions on the releasing of such products and informed itself about the status of the product and the sale as well as on questions of patents and licensing."

A Yes.

Q Does the expression "directorate conference", in your affidavit mean the conference of the directorate of the sales combine in Leverkusen?

A Yes.

Q Was this directorate conference in charge of the management of the pharmaceutical sales department or of the pharmaceutical main conference?

A It dealt with the pharmaceutical sales department and not with the pharmaceutical main conference.

Q Did Professor Hoerlein participate in these Leverkusen directorate conferences?

A No.

Q Was Professor Hoerlein a signatory to the contracts of the directors, Prokurists, or other members of any department belonging to a sales combine?

A As far as I know, that is not so.

Q I have no further questions, Mr. President.

THE PRESIDENT: Does the Defense desire to cross examine this witness further? There being no indication of such a desire, has the Prosecution any redirect examination?

REDIRECT EXAMINATION

BY MR. SPRECHER:

Q Just one or two questions, if you please.

In the meetings of the Pharmazeutische Hauptkonferenz, the pharmaceutical committee, did there sometimes.... tell us whether or not there sometimes appeared conflicts which involved technical problems between the various groups which were represented in that conference?

A Sometimes there were differences of opinion; but I really don't know about any conflicts.

Q Now, did the pharmaceutical committee, or the the Pharma, sometimes make recommendations, so far as you heard, to the Vorstand?

A I don't know that in detail.

Q I understood you to say that some questions of coordination, where a difference of view was involved between the various groups represented in the Pharma, would have to be decided by the Vorstand. Is that right?

A Yes, that is right.

Q How was the matter taken to the Vorstand? Do you know?

A I assume that Professor Hoerlein would have done that, but if it concerned commercial matters, it might be Mr. Mann. Naturally, I am not informed about these events specifically.

Q Did you say that the Defendant Mann would do that in case it was a commercial question?

A Yes, questions of a commercial nature.

THE PRESIDENT: Do you have any further questions, Dr. Nelte?

DR. NELTE: No, Your Honor.

THE PRESIDENT: Then the witness is excused, and the Marshal may escort him from the box.

MRS. KAUFMAN: Mary Kaufman for the Prosecution.

The next series of documents the Prosecution will offer appear in Document Book 49.

THE PRESIDENT: Some of us don't have our books, but you may go along. We'll make notes until we get them.

DR. HOFFMANN: Mr. President, I have just one request to make. In

the course of the proceedings here we were once informed of a regulation, according to which witnesses, before they are examined, are not to be present in the audience. I don't know whether this regulation holds true for this Tribunal, and I really don't want to insist upon that on principle, but in this one case which I am going to mention now I should be very glad if the Tribunal would exclude the witness Diekmann, who will be cross examined later, and who is now in the audience, because Book 49 will mention a subject which will also be the subject of my cross examination.

MR. SPRECHER: Since the Defense makes the request I think we can certainly take care of the matter. On the other hand, Your Honors, it has been our practice to tell the various witnesses in this trial that they are as free as any other German citizen who is free and not in confinement, to come to this court house to visit any trial they wish to visit, and I would think that, from the point of view of the purpose to be served, that would be a good way to handle it, except where Counsel may have other desires, in which case we shall certainly join with them.

THE PRESIDENT: As far as the President is concerned, he had no knowledge of any general rule applicable to the Tribunals relating to that subject. At least, it has not been called to our attention. It's not unusual in the practice with which we are familiar for the court to exclude witnesses from the court room until after they have testified. The Tribunal is not disposed, on its own initiative, to deny anybody the access to this court room. One of the fundamentals that control these deliberations is that court shall be open to the public. However, upon a request made by Counsel at any time, asking that a witness be excluded until after his testimony is made and received, the Tribunal will be disposed to grant that request. In this instance, we shall do so and, Mr. Prosecutor, will you arrange to see that your witness is advised of the ruling?

MR. SPRECHER: Yes, Your Honor.

THE PRESIDENT: So that it will not be necessary for us to take any

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further notice of it.

MR. SPRECHER: Yes, indeed.

MRS. KAUFMAN: The Prosecution offers, as its Exhibit 899, Document NI-1317 which appears on the first page of the English and on the first page of the German document book. This is a strictly confidential memorandum dated 10 January 1940, based on a report received by VOWI concerning the effect on Rumania of the Russian war with Finland. The memorandum contains such items as, and I read from Page 1 of the English and Page 2 of the German:

"The Russian reverses in Finland...."

This is the second sentence of the second paragraph:

"...have exercised an amazingly strong influence on public opinion, and the Roumanian Officer Corps is now inclined to believe, in total disregard of the natural factors which were decisive influences in the Russian reverse in Finland, that, should the Russians invade Bessarabia, the Roumanian Army would be in the position to overcome it. During his last tour of inspection to Bessarabia, the king stated in a speech that any invasion of Roumanian territory would immediately constitute grounds for a declaration of war. At the same time the army of General Weigand in Syria, the strength of which is to be increased to 900,000 men, is also looked upon as a strong rear-guard in case of need. It is believed that this army represents support for Roumania, either indirectly by an attack on Russia's Southern frontier against the Caucasus Mountains or directly by a landing in Constanza."

And then the second paragraph following this statement:

"The political situation at home is depicted as extremely tense, as the equipment supply system and accommodation provided for the Army is wretched in view of prevailing wintry conditions and the men are laboring under great difficulties in the present cold weather. The morale of the Army is said to be very low and numerous cases are said to have occurred in which, as a result of the poor supplies of food and equipment, Roumanian soldiers are dying of cold or committing suicide."

And the final, the next to the last paragraph of this statement, states:

"War is expected in spring and it is also expected that, should the Allies land in Constanza, the Roumanians would take no action. Apart from the preparations to be made in the oil-field areas, the cliffs at the Iron Gate must be prepared for demolition."

And this is a document appearing under the signature of some one in the Economics Department of I.G. Farben.

The next document, appearing in Document Book 49, is an affidavit which will be omitted by the prosecution at this time for the purposes of expediting the proceedings.

Document MI 6544 has been previously introduced as Prosecution's Exhibit 377. It appears in Document Book 17 and is an affidavit by the defendant Ilgner. Ilgner's affidavit appears at page 3 of the English and page 6 of the German Document Book 17. In discussing his contact with Major Bloch of the Intelligence Department of the High Command of the Wehrmacht, known as the Abwehr, Ilgner refers at page 17 of the English and page 31 of the German to an incident which took place in 1936 when Major Bloch, after receipt of Ilgner's report on East Asia, requested Ilgner to obtain specific information for the Abwehr from the Verbindungsmaenner. Although Ilgner states that, in view of the standing of I.G. in foreign countries, it would have been embarrassing to accept specific requests for information from the Abwehr, nevertheless Ilgner admits in this affidavit that he placed the Verbindungsmaenner reports at Bloch's disposal. The defendant Ilgner also states that certain I. G. people were assigned to and worked directly with the Abwehr and he names among them the I.G. Verbindungsmaenner at Budapest, Kuegler, and two persons who worked with I.G. on a consultant basis and submitted reports from Turkey, a von Lersner and a von Fluegge. I should like to read what Ilgner says about Lersner and will read from page 18 of the English and 34 of the German. This is under the item marked 19a:

"Lersner was an old friend of Geheimrat Bosch and transferred in 1939 his residence to Constantinople. Since by reason of his activity as consultant in the past and in his capacity as contact man for Bosch in Berlin, Lersner continued to draw his retainer from the I.G., - but not having a fixed relationship with I.G., - he was completely independent with respect to the selection of his domicile. The reason might have been that being a semi-non-Aryan he did not want to remain any longer in Germany and at the same time, Papen, who had become Ambassador at Ankara, had possibly encourage him to go to Constantinople. Lersner informed Krueger of it; von Knieriem was likewise informed (possibly on account of the retainer contract). Now, as regards the situation with the OKW Abwehr Lersner writes every month or so what is called 'Situation Reports' which he sent to Weizsaecker of the Foreign Office and to the OKW..."

At this point I should like to request the Tribunal to note that the term "counter intelligence" is inaccurately stated here for reasons which I shall state to the Tribunal at a later point in the proceedings, and I should like to substitute the term "Abwehr" and to the OKW, Abwehr.

"With Weizsaecker's consent, Lersner, possibly because he wanted to be obliging to I.G. in view of the retainer's still being in effect had had one copy for I.G. sent to the attention of Krueger."

These same people, mentioned by the defendant Ilgner, were named by Krueger in his affidavit marked NI 4928 appearing as Prosecution's Exhibit 378 in Document Book 46, at page 104 of the English and 123 of the German.

The prosecution offers as its Exhibit 900... I'm sorry. This document has previously been introduced. The document marked NI 6418 has been introduced as Prosecution's Exhibit 366. It appears in Book 49 on page 6 of the English and page 10 of the German. This document consists of excerpts from a commercial committee meeting of 5 November 1937, presided over by the defendant Schnitzler and attended

by the defendants Schmitz and Oster. This document is offered for the purpose of showing that Fluogge's collaboration with the Nazi officials was not limited to the Abwehr but also extended to the Foreign Office and the Ministry of Economics and that this matter was discussed at the commercial committee meeting of I.G. as early as 1937. I read at page 6 of the English and page 10 of the German. This is under Item 10b:

"Dr. Krueger states that Herr von Fluogge has finished his report on Turkey and after agreement with the Foreign Office and the Economic Ministry, will now proceed on investigations in Iran, Irak and Syria, similar to those he has carried out in Southern Europe and Turkey."

I should like to refer at this time again to an affidavit executed by the defendant Ilgnor, appearing in Document Book 17. This document is marked NI 6649 and has been introduced as Prosecution's Exhibit 339. It appears on page 46 of the English and 86 of the German. This is an affidavit by the defendant Ilgnor which discusses I.G.'s relation with a Hermann Neubacher. This document is referred to for the purpose of showing that I.G. not only placed its own people abroad at the disposal of the Reich authorities, but also placed avowed Nazis abroad at the request of the Reich authorities. Neubacher was hired at the request of Claudius of the Foreign Office after Neubacher had served a sentence for illegal Nazi activities in Austria. The subversive nature of the activity which Neubacher engaged in during his association with I. G. is indicated in the next document.

The Prosecution offers as its Exhibit 900, Document marked NI 5732 which appears at page 8 of the English and page 13 of the German. This document consists of minutes of a meeting of the department heads of Berlin NW 7 on 5 October 1937. I read at page 9 of the English and 15 of the German. Under the item marked II. 1. "Commercial Committee's Office,

"Authorization and Introductions for Dr. Neubacher - Journey to

Czechoslovakia (in presence of Dr. Neubacher).

"On Frank-Fahle's enquiry, Neubacher reported that he had received his special commission for Czechoslovakia from Ilgner via Gattineau, and Neubacher stated in addition that he had been asked by Gattineau, and Neubacher stated in addition that he had been asked by Gattineau to be available in Vienna during Geheimrat Bosch's presence there. Frank-Fahle asked Neubacher to proceed most cautiously with his activities while staying in Czechoslovakia, particularly in his dealings with official quarters and in this connection pointed out the special difficulties which arise in connection with activities in Czechoslovakia. He further asked Neubacher first to come back from Vienna to Berlin in order to discuss with Kruoger once more and to prepare the journey together with the office of the Commercial Committee by arranging introductions to agencies and perhaps to other parties involved. Frank-Fahle will make reference to the intended journey at the meeting of the Commercial Committee.

"In this connection Frank-Fahle also asked Neubacher always to forward copies of his letters to the various departments to the office of the Commercial Committee which acts as liaison office to people working for us abroad, in order to ensure better utilization of his activity."

The document marked NI-5746 has been previously introduced as Prosecution's Exhibit 420. It appears on page 12 of the English document book and page 21 of the German document book and consists of minutes of a meeting of the department heads of Berlin Northwest 7 held on 7 December 1937 which states, and I read, page 13 of the English and page 25 of the German:

"Gattineau reports about a desire on the part of Herr Keppler" -- of the Foreign Office -- "to have the figures compiled by Dr. Neubacher placed at his disposal. As there are no such compilations, Gattineau is to inquire whether Herr Keppler is referring to Dr. Neubacher's reports, and if he wants to have these placed at his disposal."

The next series of documents contain excerpts from "Verbindungsmaenner" reports and is offered for the purpose of showing the character of these reports. As has previously been noted especially in Prosecution's Exhibit 772, an affidavit executed by the defendant Ilgner, marked NI-6702 and appearing in Document Book XVII at page 23 of the English and page 42 of the German, the "Verbindungsmaenner" occupied positions of importance in the economic and political life of the country they were stationed in, and in addition they were in many cases leaders of the foreign organizations of the Nazi Party. A list of such affiliations of I. G. employees abroad appears in Ilgner's affidavit at pages 28, 29 and 30 of the English and pages 54 to 57 of the German. Most of the men referred to in that list were I. G. "Verbindungsmaenner".

The Prosecution offers as its Exhibit 901 a document marked NI-9558 which appears on page 15 of the English and 29 of the German. This is a report by Werner Siering, I. G. "Verbindungemann" of Chile, concerning Chile, the European conflict, United States propaganda, the La Plata Conference, internal politics of Chile, the economy and industry of Chile, and the relations between Chile and the United States.

The Prosecution offers as its Exhibit 902 a document marked NI-9556 which appears on page 19 of the English and 35 of the German. This consists of excerpts from a report for September/October 1941 by

Heinrich Homann, who was the "Verbindungsmann" of Argentina, concerning information about the situation in Argentina and its relations to the United States. The report contains such items as what appears on page 19 of the English and 36 of the German, and I read:

"Supply difficulties for products from North America are increasing every month, since the United States are in the dilemma of not even being able to satisfy the belligerent countries as regards their demands which have priority over those of the Latin American republics. In addition, quite a number of the branches of industry which are not connected with war industry have already been made subject to rigid restrictions as a result of North America's armament program, and a shortage of various raw materials is already making itself felt in North America."

The Prosecution respectfully refers the Tribunal's attention to Document Book XXXXIV which contains a document marked NI-10575 and which has been introduced as Prosecution's Exhibit 806. It appears in Document Book XXXXIV on page 98 of the English and 182 of the German. This document consists of excerpts from a report by the American Charge d'Affaires in the Argentine foreign office concerning the activities of German Nationals in Argentina. The report which describes Homann's pro-German and espionage activities indicates the type of activities engaged in by I. G. "Verbindungsmaennner" on behalf of the Nazi war program.

The Prosecution offers as its Exhibit 903 a document marked NI-9561 which appears on page 21 of Document Book II in the English and 38 of the German. This document contains excerpts from a report by Werner Siering concerning information of military affairs, aviation and shipping.

The Prosecution offers as its Exhibit 904 a document marked NI-9560 which appears on page 24 of the English and page 40 of the German and consists of a report by Werner Siering concerning the military aviation plans in Chile.

Errata Sheet

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Transcript (English), 15 October 1947, morning session

Page 2152, paragraph 4 following should read:

The Prosecution offers as its Exhibit 907 a document marked NI-9553 which appears on page 31 of the English and page 47 of the German and consists of excerpts from a report by Heinrich Homann containing information regarding United States-Argentine relations and measures taken to combat the Axis Powers.

The Prosecution offers as its Exhibit 908 a document marked NI-9554 which appears on page 33 of the English and page 50 of the German, and consists of excerpts from a report by Heinrich containing information regarding five Inter-American conferences, action on the United States blacklist, and the Argentine Commission of Military Specialists, contacting of the United States concerning armament project.

The Prosecution offers as its Exhibit 909 a document marked NI-9555 which appears on page 36 of the English and 55 of the German. This document consists of excerpts from a report by Heinrich Homann containing information regarding types of Argentine exports to the United States.

The Prosecution offers as its Exhibit 910 a document marked NI-9559 which appears on page 37 of the English and page 56 of the German. This document consists of excerpts from a report by von Humboldt, the I.G. "Verbindungsmann" in Mexico dated 15 August 1941 containing information regarding relations between the United States and Mexico.

The Prosecution offers as its Exhibit 911

The Prosecution offers as its Exhibit 905 a document marked NI-9557 which appears on page 26 of the English and 42 of the German. This document consists of excerpts from a report by Heinrich Homann dated 21 March 1941, and contains information regarding exports to the United States for the use of the United States Army.

The attention of the Tribunal is respectfully called to the fact that with respect to the last two exhibits offered by the Prosecution, these reports were transmitted to various agencies within I. G. and among those who received these reports the Tribunal will find with respect to Prosecution's Exhibit 904 that Dynamit A. G. received this report, and I believe the same is true of Prosecution's Exhibit 905. That is right.

The Prosecution offers as its Exhibit 906 a document marked NI-9552 which appears on page 29 of the English and 45 of the German. This document consists of excerpts from a report by Heinrich Homann dated 28 May 1942 containing information regarding the disposition of a rubber crop and decisions of a meeting of the Inter-American Defense Commission.

~~The Prosecution offers as its Exhibit 907 a document marked NI-9553 which appears on page 31 of the English and page 47 of the German and consists of excerpts from a report by Heinrich Homann containing information regarding five Inter-American conferences, action on the United States blacklist, and the Argentine Commission of Military Specialists, contacting of the United States concerning armament project.~~

~~The Prosecution offers as its Exhibit 909 a document marked NI-9555 which appears on page 36 of the English and 55 of the German. This document consists of excerpts from a report by von Humboldt, the I. G. "Verbindungsmann" in Mexico dated 15 August 1941 containing information regarding relations between the United States and Mexico.~~

The Prosecution offers as its Exhibit 911 a document marked NI-9562 which appears on page 40 of the English and page 58 of the German. This document consists of excerpts from a report by Werner

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Siering of September 1941 containing information about military affairs.

The Prosecution offers as its Exhibit 912 a document marked NI-9563 which appears on page 43 of the English and page 62 of the German. This consists of excerpts from a report by Werner Siering of 8 October 1940 containing information about civil aviation.

THE PRESIDENT: This would appear to be a good place to recess for lunch.

The Tribunal will now recess until one-thirty.

The MARSHAL: The Court is in recess until one-thirty.

AFTERNOON SESSION

(The Tribunal reconvened at 1330 hours, 15 October 1947.)

THE MARSHAL: Military Tribunal No. VI is again in session.

MRS. KAUFMAN: Before proceeding with the next series of documents, I should like to direct the Tribunal's attention to the transmittal letters which accompanied most of the "Verbindungsmann" reports introduced in the previous exhibits, particularly Exhibits 912, 911 and 910, and I should like the Tribunal to note that their reports were transmitted to Mueller, the president of Dynamit A.G., and also an additional report was sent to the Economic and Social Department of Dynamit A.G.

The Prosecution offers as its Exhibit 913 Document NI-670 which appears on page 45 of the English and 64 of the German. This document is introduced for the purpose of showing the close relationship between the German embassy in Mexico and the I.G. "Verbindungsmann". It consists of a letter from the defendant Ilgner to the defendant Schnitzler dated 21 June 1942 the diplomatic relations between Germany and Mexico were broken off. Ilgner states that the former commercial attache at the German Legation in Mexico and had informed him that the I.G. "Verbindungsmann", Fischer, was held in high esteem in Mexican circles and would probably be able to remain in Mexico throughout the War. Ilgner also transmits a cable which is contained in the documents in this exhibit from the "Verbindungsmann", Fischer, concerning the effect of the breaking off of the diplomatic relations, and Ilgner requests Schnitzler to meet with the commercial attache to hear this report concerning Mexico.

The Prosecution offers as its Exhibit 914 Document NI-10922 which appears on page 50 of the English, 71 of the German. This is a report of 21 February 1944 by the embassy of the United States in Buenos Aires to the Secretary of State concerning espionage activities in Argentina. The purpose of this exhibit is to show the character of the espionage group in Argentina according to the report consisted of three groups, one of

which was known as the Becker Group. In describing the Becker Group, the report names as one of the chief participants Juan Gerardo Luis Harmeyer, and advertising chief of I. G. is quigica Bayer, and another I.G. employee. Harmeyer was identified in Prosecution's Exhibit 806, Document NI-10575, appearing in Document Book XXXIV, as an important employee of the Bayer Company working under the "Verbindungsmann" Homann.

The Prosecution refers to an exhibit appearing in Book XXXVI. It is marked Prosecution's Exhibit 827, NI-7666, and appears on page 5 of the English and page 5 of the German. This document consists of minutes of a Bayer directors meeting of 21 October 1943 in which it is noted that --and I read from Document Book XXXVI, from page 8 of the English and page 11 of the German, an item marked "C4 502) Brazil - Liquidation of German Firms.

"We have received the information that, under a decree of the State President of Brazil a number of the German firms, including the Chimica Bayer, have been liquidated on account of espionage."

The Prosecution respectfully refers the Tribunal's attention to a document appearing in Document Book XXXV which is marked as Prosecution's Exhibit 805, NI-10555. It appears at page 24 of the English and 51 of the German. Reference to this document is made at this time to show the character of the program of the Nazi Government with respect to its planning and waging of aggressive war in Latin America and to present to the Tribunal a coordinated picture of the significance of all the activity of I.G. Farben's agents and their "Verbindungsmanner" in Latin America in connection with their espionage and propaganda program. This document indicates the purposes to be served by the fostering and promoting of German institutions in Latin America, the control of the press. It also indicates that pro-German political activities in Latin America had as its objection the undermining and subversion of pro-Allied countries in Latin America, and the formation of a pro-axis block directed principally against the United States. I should like to read at page 33 of the English in Document Book XXXV, and 56 of the German:

"What is known is that these Nazi forces carried on in the Americas an attack against the Allies as dangerous as a Nazi advance on the battlefields. Through them the Nazi war leaders received important information on the war effort of the American republics needed to plan Nazi strategy; through them, the Nazis were enabled to torpedo Allied ships and otherwise destroy Allied resources and manpower; through them, the Nazis carried forward their objectives of fostering disunity, discontent, and division among the peoples and the governments of the American republics, a strategy of first importance and value in the Nazi concept of total war.

The next series of documents relate primarily to I.G. Farben's relationship with the intelligence service of the Wehrmacht and show that I.G. worked closely with the intelligence department of the German High Command as well as with the Foreign Office and with the military economic staff of the German High Command. I should like to make certain preliminary remarks concerning the organization of the intelligence service of the Wehrmacht because the term describing that service has been repeatedly inaccurately translated in the documents appearing in the English document books. As the documents which will be introduced by the Prosecution will reveal, the intelligence service of the Wehrmacht was carried on by what was known as the Abwehr of the High Command of the Armed Forces under the direction of Admiral Canaris. This department, the Abwehr, carried on security and counter-intelligence activities and intelligence and espionage activities as well. However, they were carried on by separate offices within the Abwehr. Espionage intelligence activities were carried on by a branch of the Abwehr designated as Abwehr I and sometimes ABwehr I/WI which related to economic intelligence. The security and counter-intelligence activities were carried on by a branch known as Abwehr III. The term "Abwehr" does not appear to lend itself to accurate translation and has been continuously translated as "counter-intelligence" in the documents appearing in the English document book, even when only and for the most part-- that is the case in these documents -- the intelligence and espionage functions were involved.

In view of the fact that the Prosecution is concerned in connection with Section G of Count 1 primarily with the intelligence and espionage activities of the Abwehr and its relationship with I.G. The Prosecution respectfully requests the Tribunal to make note of the misleading translation "counter-intelligence" appearing time and again in the document books.

The Prosecution offers as its Exhibit 915, Document NI-4671, which appears on page 58 of the English and page 76 of the German. This document is an affidavit executed by Rudolf Diels, who was Deputy Chief of the Prussian Political Police. He states that at the beginning of 1933 the defendant Ilgner appeared at his office, on the premises of the Secret Service Police in Berlin--that is the Gestapo--and introduced himself as a representative of I.G. Farben. Diels states that Ilgner informed him that he had organized a foreign news service and offered to supply the Gestapo with news from abroad.

At this time the Prosecution respectfully refers the Tribunal's attention to Book 17 and Ilgner's affidavit marked NI-6544, marked Prosecution Exhibit 377, which appears at page 3 of the English book and page 5 of the German. In this affidavit Ilgner describes his first contacts with a Major Bloch, who was in charge of intelligence activities of Abwehr. Ilgner met Bloch in 1933, and between 1933 and 1934 saw him several times in connection with his activities in the circle of economy leaders of the Ministry of Propaganda and other organizations in which Ilgner was active. Ilgner's Far East Report. At this time Ilgner offered Bloch regular reports that came in from Verbindungsmaenner.

At page 20 of the English and page 37 and 38 of the German, Ilgner discusses the I.G. Abwehr organization.

According to Ilgner, some time in 1936 or 1937 the system of Abwehrbeauftragte, as they were called, or Abwehr agents was established. Employees of I.G. in all of its plants and offices were appointed by the Abwehr office of the High Army Command with the consent of the Party, to act as agents for the Abwehr within the I.G., and were designated The Abwehrbeauftragte.

Although Ilgner states that originally the tasks of Abwehr agents were concerned exclusively with security and counter-intelligence matters, and that after the outbreak of war Abwehr agents were also responsible for the forwarding of reports from abroad to the Abwehr, the Prosecution has established that the transmittal of such reports took place prior to the outbreak of the war, and the Prosecution will also introduce additional documents to establish this fact further.

The Prosecution offers as its Exhibit 916, Document NI-8150, appearing on page 60 of the English and 78 of the German. This is an affidavit by the Defendant Mann of April 1947 in which he states that a Mr. Kettniss, a representative of the Regional Abwehr Office in Cologne, approached the office of the I.G. Sales Combine, as well as the manager of Leverkusen, and demanded that reports of a general nature which came to I.G. through its foreign agency be transmitted to the Abwehr office.. Mann instructed his secretary at different times to compose reports of this nature and to turn them over to Kettniss. The date at which this arrangement was made is set by Mann as about the time when the duties of the Abwehrbeauftragte were determined.

The next two documents appearing in the Document Book 49 marked NI-10419 and 10422 are affidavits which are not offered by the Prosecution at this time in the interests

of expediting the proceedings.

The document, marked NI-6658, has been previously introduced as Prosecution Exhibit No. 164. It appears on page 68 of the English Document Book 49 and page 89 of the German book.

I have been informed that counsel for the Defendant von der Heyde wishes to make a statement concerning this exhibit at this time.

DR. HOFFMANN (Counsel for defendant von der Heyde):

Perhaps Your Honors will remember that when these documents were submitted I raised an objection, and that I was told to draw up the reasons for my objection in the form of a memorandum. The memorandum has been completed; it is being translated, and I ask you to please reserve my right to object since these documents are now being submitted again.

THE PRESIDENT: The chair does recall the matter referred to counsel for the defendant von der Heyde, and when the memorandum is ready for submission if you will let us have it we will give it proper attention at that time. The affidavit being already in evidence on the record, you may proceed (To Prosecution.)

MRS. KAUFMAN: This exhibit consists of two affidavits executed by the Defendant von der Heyde; one dated 1 May 1947 and the other, a supplementary affidavit to the first, dated 2 May 1947. In the first affidavit, which commences at page 69 of the English and page 90 of the German, von der Heyde states that he was a consultant in VOWI on nitrogen and agriculture from 1936 until September 1940, when he was called into the armed forces. In 1938 he became Abwehr agent for Berlin NW 7. Von der Heyde states that after he was called into the armed forces he worked for I.G. occasionally from September 1940 until the second

quarter of 1941.

At this point I should like to read to the Tribunal what von der Heyde states about his association with the SS and its connection with his function as Abwehr agent at Berlin NW 7. I am reading from page 69 of the English and page 91 and 92 of the German. I refer to paragraph 2:

"Since 1934 I was a member of the Reitersturm 7 (cavalry company) of the General SS. My membership in this Reitersturm lasted until the end of 1936. The last rank I held was that of Hauptscharfuehrer. I automatically continued to be a member of the General SS, and when I was appointed"--and here the word "counter-intelligence" appears, and should read "Abwehr agent of I.G. plant, Berlin NW 7, in the middle of 1938, I was transferred to the Reich Main Security Office. At the time of my transfer, I held the rank of Hauptscharfuehrer. About the end of 1938 I was promoted to the rank of Untersturm-fuehrer; one year later to that of Obersturm-fuehrer, and in the middle of 1940 I was promoted to Hauptsturm-fuehrer. These promotions came to me during my service as counter-intelligence agent of plant Berlin NW 7. From 1 May 1937 on I was a member of the NSDAP."

"3. I know that Abwehr agents in general, as well as the Chief Abwehr agent of I.G. were registered with the Reich Security Office. Their appointment was confirmed both by the Abwehr as well as by the Reich Main Security Office. At the request of the Abwehr offices concerned, the names of prospective Abwehr agents were proposed by the Betriebsfuehrer Plant Manager, and, if acceptable, the appointments were made by the aforementioned government offices. The agents were responsible both to the above government offices as well

as to the Betriebsfuhrer. In my own case, my appointment was proposed by Dr. Max Ilgner, and it was my duty to keep him informed on important matters. This was particularly so with Dr. Ilgner, who always gave me the impression of being a most autocratic type of Betriebsfuhrer".

Von der Heyde then states that a short time after his appointment as Abwehr agent he was requested by the Defendant Gattineau to contact Major Bloch of the Intelligence Department of the Abwehr and, as a result an arrangement was made to transmit to Abwehr I reports from foreign countries. And, in addition, Bloch was to be informed of the visits to Berlin of any I.G. people from foreign sales agencies. Bloch then met with the agents he selected. Von der Heyde describes this as a regular procedure and states that he took over this connection with Bloch from Gattineau. Von der Heyde also states that the defendant Schneider was appointed Chief of the Abwehr Agents in 1940, and shortly thereafter a "Bureau A"--which is an abbreviation of the term Abwehr--was established to coordinate the activities of the Abwehr agents.

Von der Heyde was appointed chief of Bureau A for commercial matters and Dieckmann for technical matters.

Reports from commercial agents abroad, Verbindungsmaenner, VOWI reports, and so on, were transmitted to the Abwehr, either through Bureau A, in Berlin Northwest 7, or through Abwehr agents in the different I.G. plants, to local Abwehr offices. Finally, von der Heyde states that he kept the Defendant Schneider informed of the Abwehr matters from time to time and that Schneider reported to the Vorstand.

The Prosecution offers as its Exhibit 917, Document NI-6648, which appears on page 72 of the English and 97 of the German. This is an affidavit executed by the defendant Schneider on 19 April 1947.

I should like to read the first two paragraphs of this affidavit.

DR. HOFFMANN (Counsel for defendant von der Heyde): Your Honors, may I revert back to the document NI-914, which is a report of the American Embassy in Buenos Aires? In our German document book, in the Appendix, we have only a few excerpts. The report of the Argentine Police, which is appended to the document, covers eleven or twelve pages. The report is not signed. It is merely designated as a report of the Argentine Police. It is certainly not a captured document, and I object against the submission of this document since it is not signed, and I have misgivings whether this is an official report of the Argentine Police.

MR. KAUFMAN: With respect to counsel's first comment, that the German document book contains solely excerpts, the document appearing in the English document book also contains only excerpts. And with respect to the second question, we have a signed transmittal letter from the First Secretary of the Embassy, transmitting this document.

THE PRESIDENT: Is the entire document in the official exhibit?

MRS. KAUFMAN: The entire document is in the official exhibit.

THE PRESIDENT: And is the certificate with the original document?

MRS. KAUFMAN: The certificate is with the original document.

THE PRESIDENT: That would seem to meet the practice, so far as the document being properly authenticated is concerned.

MRS. KAUFMAN: I should also like to point out to the Tribunal that this is an official report of an official governmental agency.

THE PRESIDENT: It so purports to be, and prima facia would therefore be admissible. Now, as to whether or not the entire document should be Before the Tribunal or whether or not counsel for the Defense wish to bring in additional parts of the document not contained in the books -- he can determine. And upon proper request, if he finds anything in the document that ought to have the attention of the Court, and it is not before us, we shall try to provide means whereby it can be made accessible to the Court.

On the fact of it, we will overrule the objection on the document not being properly authenticated. We shall leave it to counsel for the Defense to determine whether or not he wishes to bring up additional parts of the document for the consideration of the Tribunal.

MRS. KAUFMAN: In connection with the exhibit offered as Prosecution's Exhibit 917, I should like to read from page 72 of the English and 97 of the German, the paragraph under No. 1:

"The passing on of foreign reports to the Abwehr was already customary before the war and before I took up my activities as Chief Abwehr agent of the I.G. I do not know

in which way they were passed on, but I suppose that this was done -- "I am taking the liberty of substituting the word 'Abwehr' -- through the Abwehr agents of the individual plants."

"After taking over the job of chief Abwehr agent of the I.G., I had a meeting with Admiral Canaris in which the future cooperation between the I. G. and the Abwehr was discussed. Admiral Canaris expressed the wish that this cooperation should become far closer and more intensive in the future than it had been up to now, I reported to the chairman of the Vorstand, Geheimrat Hermann Schmitz, about this meeting."

The Prosecution offers as its Exhibit 918, Document NI-6647, which appears on page 74 of the English and page 100 of the German. This is an affidavit by the defendant Schneider, dated April 18, 1947, in which he names some of the I.G. Abwehr agents and states that he received reports from Bureau A concerning its activities and that occasionally he visited Bureau A and discussed the matters of interest with its officials.

I should like to read paragraph 6 of this affidavit, appearing on page 75 of the English and 101 of the German:

"Staff members of the I.G. traveling abroad had to give the Abwehr an exact account of matters seen and experienced during their journey, when they returned. It also happened sometimes that Abwehr officers or Abwehr agents approached some of the members, by order of the OKW, with the request that they should pay special attention to particular matters during their travels abroad. The matters in question were mostly of an economic nature, such as the construction of new factories, production, etc., and the political situation. Whenever the Wehrmacht approached with the request to watch out especially for various

happenings abroad during our travels, this request was transmitted to us by the BDKA, which was in charge of Herr Frank-Fahle. The 'A' Department was really more of a link, I also discussed these points briefly with Herr Frank-Fahle."

The Prosecution offers as its Exhibit 919 Document marked NI-1333, which appears on page 77 of the English and 103 of the German. These are minutes of the Northwest 7 Department Head Meeting, dated 4 October 1940 in which a report on a preceding Commercial Committee meeting, which appears on page 78 of the English and 105 of the German, contained an announcement of the appointment of Schneider as chief of Abwehr agents and of von der Heyde's and Dieckmann's roles in Bureau A.

(Mrs. Kaufman) The prosecution offers as its Exhibit 920, document marked NI10924, which appears on page 81 of the English and 108 of the German. This is an affidavit by Dieckmann, dated 3 September 1947.

In this affidavit Dieckmann states, I read from Page 81 of the English, and page 108 of the German, -- this is towards the end of paragraph numbered 1:

"I know from the time of my own activity that I was requested several times by officers of the Abwehr I, to obtain information from our technicians who went abroad. Since, however, I did not want to have anything to do with these things and my technical superiors gave me an analogous order to refuse, I transmitted these requests to my commercial colleague, Herr v. d. Heyde. During the war the following procedure applied:

When I learned that technicians went abroad, I told the gentlemen that they should report in Berlin at the Liaison Office W, - Vermittlungsstelle W, - "later on at the Bureau A. Then the Chief of the Office, Herr Horn, conducted these people to Herr v. d. Heyde, or his deputy and later to his successor Herr Ruediger."

Reading from page 82 of the English, and page 109 of the German, the second sentence in Item 2:

"For instance I can remember that I was asked for information regarding the nitrogen plants in England. During the war we were asked to put pictures of the industrial plants in enemy countries at the disposal of the Wehrmacht. I also can remember that photos of the German Luftwaffe were put before me and I was asked to give a technical explanation of these pictures."

The prosecution offers as its Exhibit 921, Document NI 8515, which appears on page 84 of the English, and 111 of the German; - this is a letter of 23 Sept. 1938 from the Reich Group Industry to the Economic Group Chemie, requesting that foreign technical experts working abroad not to transmit observations by mail, but by word of mouth or through highly confidential messages, and a letter of 15

October 1938, by Economic Group Chemie to the Security Service of I. G. transmitting this request for necessary action.

I should like to refer the Tribunal's attention to the date of the first letter which is 23 September, 1938, and then I shall read from paragraph one on page 84 of the English and page 111 of the German:

"The High Command of the Navy has a report according to which German Engineers who work for their German company in foreign countries are said to have an opportunity of getting a very deep insight into the organization and the stage of technical development of the Armed Forces of the foreign country in question. Unfortunately, however, the engineers had been careless in that they reported concerning these observations in letters, without stopping to think that the letters are examined."

The prosecution offers as its Exhibit 922, Document marked NI 7796, which appears on page 86 of the English, and page 115 of the German. At this point I should like to direct the Tribunal's attention to an inaccuracy in the document, or rather to a misleading translation appearing in the document.

At page 87 the Vorstand members names appear in the English document book. These names were actually transcribed from the bottom on the document, and appeared there in printed form as if on a letterhead. It was not the prosecution's intention to create the inference that this letter was directly transmitted to the particular members mentioned.

This document is a letter of 4 May, 1939 from Dieckmann to I. G. Farben, Sparte I, a copy of which was sent to Krauch and to Mureck of the OKW Military Economy Staff, in which he reports about the construction and the production potential of two new British ammonia plants, built for the British War Office.

The last paragraph appearing on page 86 of the English, and 115 of the German states:

"The two plants mentioned above, with a total production capacity

of from sixty to one hundred thousand tons of nitrogen per year, would, if the above estimate of capacity is correct, probably be able to cover the entire requirements of primary nitrogen of the British plants for the production of highly concentrated nitric acid, even should the Billingham plant be put out of action."

The prosecution offers as its Exhibit 923, Document NI7965, which appears on page 90 of the English Document book, and 120 of the German. This is a secret memorandum in the office of the Military Economy Staff, of the OKW dated 2 May, 1939, concerning a discussion with Dieckmann, on nitric acid and nitrogen factories in Great Britain.

It says, and I quote from the first line:

"I. G. Farben has gained knowledge of the following nitrogen factories in Great Britain." And then follows detailed discussion of information received by I. G. Farben concerning the location of the plants and factories, the labor supply and the estimated production capacity.

The prosecution respectfully refers the Tribunal's attention to Exhibit 1147 which appears, -- Document NI 1147, which appears in Document Book 48, at page 29 of the English, and page 30 of the German. This document has been marked as Prosecution's exhibit 884.

The Tribunal will recall from this document, that in November of 1939, pursuant to a request by I. G. directive to Fisher to obtain maps and charts on the position of the British factories for light metals, Ziegler, head of the Light Metal Division of I. G. Farben, obtained information of the location and production capacity of certain aluminum factories in England. The purpose of reference to this exhibit at this time is to show the role played by the Abwehr agents in the transmitting of this type of information.

The first letter of this exhibit shows that this information was transmitted by von der Bay, the Abwehr agent in Bitterfeld, to the Reich Air Ministry, and as the Tribunal will recall, the aerial targets were clearly marked in the plants and maps transmitted by

von der Bey.

The prosecution offers as its Exhibit 924---

DR. HOFFMANN, counsel for the defendant von Der Heyde:

Your Honors, I merely want to point out that in the German index of the Document book this letter of the first of September is termed a letter of the defendant von Der Heyde, and von Der Bey, but it is really the person who appears as a witness here, von Heider, which can be seen from the document quite clearly.

May I ask you, please, to correct the index accordingly, if it should be incorrect in the English?

THE PRESIDENT: Dr. Hoffmann are you referring to the Document NI 1163?

DR. HOFFMANN: Yes, your Honor.

THE PRESIDENT: Can the prosecution concede the error that Dr. Hoffmann mentions?

MRS. KAUFMAN: Yes, the prosecution was about to make the correction, and note that the name "von Heider" should replace "von Der Heyde".

This document consists of letters dated 1 September 1942, and 4 September 1942, between von Heider, who was the Abwehr agent in Frankfurt, to von Der Bey, the Abwehr agent in Bitterfeld.

I should like to read both of these letters since they are brief, and I read at page 93 of the English, and 128 of the German. The reference at the top of the page to, "Delegate for Defensive Measures", should be to the Abwehr Agent. That is an inaccurate translation of the term.

"To the Abwehr Agent, Director von der Bey at Bitterfeld".

"Re: Aerial Photos"

We have been asked to make aerial pictures or other photos of British works available. We have heard from our Tea-office that there are pictures or plans and sketches of the sites of the magnesium works in Clifton available in Bitterfeld. Kindly contact the managing-

department there and make the pictures which are at hand available for us for the purpose of forwarding them or forward them directly.

In the case of Bitterfeld being in possession besides of other plans and pictures of British factories (we are interested for instance in illustrations of works on letter-heads, invoices etc., and in illustrations of British works published in British periodicals or manuals) we ask you to send us these also. * Please search for these pictures as unobtrusively as possible in the archives there. Every picture must be marked with the name of the work and the place where it is situated." It is signed by the Abwehr agent, von Heider.

In reply to this, von der Bey writes to von Heider, letter dated 4 September, 1942, in which he states:

"After the outbreak of war the undersigned, in his capacity as Delegate for Defensive Measures and Building Superintendent of the Magnesium plant in England, called at the Air Ministry of his own accord and handed over to Generalmajor Loeb all the data, viz. plans of sites, photos etc. of the works Clifton-Junction as well as of the works Swansea (Wales) of which he heard there and which was erected after the Redenthein process. All the data was worked upon by the General Staff of the Luftwaffe and our Director Schiller, the local Building Superintendent in Clifton was interrogated later on by the members of the Reich Air Ministry with regard to his knowledge of the site of the factories in England.

He was asked furthermore by the Luftwaffe some time ago if there would be someone acquainted with the place ready to join in an air-raid on Clifton as observer. Dr. Schiller and Friedrich, certified engineer, volunteered for the purpose. The two men, however, were not called up for any flight. Neither have we been informed whether Clifton as well as Swansea were raided on the strength of our data.

Later on an officer of the Reich Air Ministry called asking for information concerning our knowledge of the processing works in Birmingham and other towns. Subsequently Director Ziegler and Chief

Engineer Roecke inserted in plans of the towns in question the exact situation of the processing works of light metals known to them. Thus we have informed the authoritative offices of the Reich Air Ministry at the outbreak of the war of everything worth knowing about the English light metal industry. In the case of inquiries please inform the offices in question that all particulars have been handed over by us and are no longer in our possession."

The next document marked NI 5813, has been introduced as Prosecution's Exhibit 686. It appears on page 95 of the English, and 132 of the German. This document which consists of minutes of a Vorstand meeting of 25 September 1941, is introduced for the purpose of showing that the defendant Schneider kept the Vorstand informed of Abwehr activities. The Tribunal's attention is referred to item 9 appearing on page 97 of the English, and page 126 of the German.

The prosecution offers as its Exhibit 925, Document NI 6491, which appears on page 98 of the English, and 137 of the German. This is a letter of 12 February 1944, from Schneider, as Chief of the Abwehr organization in I. G. to director Kuehne of Leverkusen, in which he invites Kuehne to attend a discussion between the Intelligence Division of the OKW, and the Technical and Commercial people in charge of I. G. in order to intensify the continuous cooperation in respect to gathering intelligence abroad on the one hand, and the Abwehr on the other, and to deepen the personal contacts.

Schneider states that invitation to this discussion was made in agreement with the defendant Schmitz, and was to take place following a Vorstand meeting.

The prosecution respectfully refers the Tribunal's attention to Prosecution's Exhibit 251, appearing in English document book 16, page 157. I do not believe I have the German reference page. This is an affidavit executed by the defendant Schnitzler marked NI 5198. Oh yes, it appears at page 173 of the German.

At pages 159 to 162, of this affidavit in the English, and 175 to 178 of the German, Schnitzler discusses I.G.'s relation with the Intelligence service of the Wehrmacht, and the type of arrangements desired by the Intelligence Department, namely (1) obtaining information from the I.G. people, coming to Germany from abroad; (2) using I.G. people employed abroad for actual intelligence activities, and (3) requests for I.G. to hire the Abwehr espionage agents in its own offices abroad.

The remaining pages of the document are concerned with an organization known at the Gesellschaft, fuer Verkaufsfoerderung, which has been variously translated as the Society for Sales Promotion, or the Association for Sales Promotion, or the Research Association.

This was an organization used by the Intelligence Department of the Wehrmacht as a cover for its espionage agents going to foreign countries. Schnitzler states that he was Chairman of the administrative council of this organization. On page 168 of the English, and 184 of the German, Schnitzler states that Major Bloch of the Abwehr, used this firm to obtain economic information out of enemy and neutral countries, and that men on special missions were sent under cover of this association.

Finally, von Schnitzler discusses his association with a von Puttkammer, secretary of the Association, who according to Schnitzler went to China in 1940 on business which he states was mixed up with the association and the OKW.

DR. BACHEM:

Your Honors, may I be permitted to revert back to Document NI 5813, I believe it is Exhibit 86. It says, "Reports to the Vorstand about

Abwehr activities" in the index, but in the document only explanations about the central organization of Abwehr questions and activities are contained. Therefore from the document it can only be seen that organizational questions were discussed, and I therefore, ask you to place a question mark in the index.

THE PRESIDENT: That will be done.

MRS KAUFMAN: The prosecution offers as its Exhibit 926, Document marked NI 1446, which appears on page 100 of the English, and 193 of the German. This document consists of a file memorandum of March, 1940, of a conference attended by Schnitzler concerning orders for Major Bloch to be carried out by the Association, and the financing of the Association. The Tribunal's attention is respectfully directed to the leading role played by the defendant Schnitzler at this conference concerning the work to be performed for the Abwehr, and to Schnitzler's leadership in soliciting and procuring financial support for this project from other industrialists.

The prosecution offers as its Exhibit 927, document marked NI 7626, appearing on page 102 of the English, and 141 of the German. This document contains excerpts from a secret letter from the defendant von der Heyde to the defendant Schnitzler, dated 30 March 1940. In this letter it appears that the defendant von der Heyde was not completely satisfied with I.G.'s cooperation with Abwehr, and the Reichssicherheitsdienst in the matter of placing Abwehr espionage agents in I.G.'s agencies abroad, to cloak their activities.

In discussing I.G.'s attitude on the question he states, and I read, page 103 of the English and 143 of the German, — this is about half way down the last paragraph:

"Naturally, I myself know all the reasons for our former reserve. From a knowledge of the details of the cases presented to me, however, I also know that some of the Confidential agents concerned had qualifications which might have made their employment or support by us not

quite the liability we feared. I think it would be highly effective, in just those cases to ask the gentlemen concerned to attend an interview and to review this matter seriously, basing our judgment on personal impressions. I know, dear Dr. von Schnitzler, that, in making this suggestion, I can count on your understanding above all others, since you yourself exerted your influence in the case of Karlsson, Latvia, to achieve a similar object.

I should appreciate it very much, if, on the occasion of your next trip to Berlin, you would give me an opportunity"

At this point the prosecution notes that the remainder of the document is illegible and no further translation was possible.

COUNSEL HOFFMANN for the defendant von der Heyde:

Your Honors, the letter has two pages, and the excerpt is only very short. The defendant, von der Heyde, of course, is very much interested in having the entire letter submitted to the Tribunal.

I merely want to ask you as a principle of procedure, am I supposed to make this motion each time, or should I lay down in writing, what document I want to have translated entirely?

THE PRESIDENT: I hardly think, Dr. Hoffmann, that it ought to be necessary for you to do either. If and when a part of a document is offered in evidence, and the entire document is in the file in the Secretary General's copy, it won't be necessary for you to get an order of the Tribunal or to make a formal motion of any kind to bring up the document. If you simply direct or request the administrative staff to supply you with the proper number of mimeographed copies and translations, so that you can offer them, that is all that we are concerned with, and it will only be, if you have some difficulty along that line, that you need to call it to our attention.

MRS. KAUFMAN: For the purpose of clarification of the record, I should like to state that the entire document except two small paragraphs appearing at the end of the document which are illegible, have been translated and appear in the document books.

THE PRESIDENT: Of course we know nothing about the conditions of this document, but let's just assume, to illustrate what we are trying to say, that the two paragraphs that do not appear in the English copy and in the German copy, are pertinent, in your opinion. All that you need to do is to order those brought up and made available to you for use as exhibits, and then at the proper time when you get into the defense, offer them and they will be received.

We do not know what the situation may be in this instance, whether you can get a copy or not, but that is the principle upon which we will proceed.

MRS. KAUFMAN: Von der Heyde also indicates in his letter that he has discussed these requests of the Abwehr and the Reichssicherheitsdienst at the last commercial committee meeting.

The prosecution offers as its Exhibit 928, document marked NI 3804, which appears on page 104 of the English, and 146 of the German. This is a reply by the defendant Schnitzler to von der Heyde dated the 3 April 1940. This letter states, and I read on page 104 of the English and 146 of the German:

"The contents of your letter of 30 March formed the subject of a discussion in our select Chemicals and Dye Committee. Afterwards I had also an opportunity to have a talk about the matter with Dr. FRANK-FAHLE who happened to be here. As far as we in Frankfurt know we did not cause any annoyance in the two offices which you mention in your letter. Of course, up to now we only dealt directly with military offices. In Berlin recently I had the opportunity to discuss at great length with Major BLOCH of the High Command of the Armed Forces another problem closely connected with the matter in question, namely, whether and to what extent the High Command of the Armed Forces is willing to make use of the services of the "Company for Sales Promotion" directed by Herrn KUENZLER and Herrn PUTTKAMER. This company is particularly well suited for this kind of intended camouflaged transaction, since an accident

in the case of one of their representatives can never lead to a catastrophe; if the worst happened, this company would have to give up its activities in the particular country concerned and limit its operations to the rest of the neutral countries. My presence in Berlin next week will afford an opportunity to discuss not only this question but also the entire complex of questions linked with the matter, and I shall gladly introduce you to Herr von PUTTKAMER if necessary. The matter is all the more difficult for the I.G. as agencies abroad are closely watched, and all the activities of their functionaries are strictly controlled in order to ensure that they are purely business transactions and are not undertaken in the interests of a third party."

The prosecution offers as its Exhibit 929, Document NI 5950, which appears on page 105 of the English and 148 of the German. This document consists of minutes of a commercial committee meeting, dated 17 April 1940, presided over by the defendant Schmitz, and attended by defendants Haefliger, Ilgner, Kugler, Mann and Osfer, in which, under an item marked "strictly confidential" and "mobilization project," von der Heyde reported on the question raised in the correspondence of the prosecution's two previous exhibits. The committee delegated Schnitzler, with the assistance of von der Heyde, to take necessary steps to assure centralized handling of this question. At page 106 of the English and 149 of the German the item states:

"As Mann and others present state, this question is doubtlessly important for I. G., but the way in which the local offices are dealing with the question can hardly be considered a recommendation for the entire matter. The ensuing debate, during which other experiences with local offices were reported, resulted in the opinion being expressed that the change from the former method of dealing strictly centrally with these questions to a decentralized administration is detrimental to a matter which is in itself useful. Since the question under consideration has to be dealt with primarily in the commercial departments of I. G., Dr. von Schnitzler is asked to take the necessary steps to assure homogenous correlation and future administration of matters pertaining to this question by one central authority. Dr. von der Heyde is going to prepare the way for von Schnitzler."

Counsel for the defense has informed me that I inaccurately quoted the presiding officer of this meeting as Schmitz when actually the presiding officer was the defendant von Schnitzler. He further states that Schmitz was not present at this meeting. However, I should like to check on that matter, or perhaps we refer the Tribunal to the question.

The prosecution offers as its Exhibit 930, Document NI 1447

which appears on page 107 of the English and page 151 of the German. This is a letter from von der Heyde to Schnitzler in which the defendant von der Heyde requests Schnitzler to meet Major Bloch in Kissingen to iron out certain difficulties appearing in the local office and to discuss matters of future cooperation.

The prosecution offers as its Exhibit 931, Document 5951, appearing on page 108 of the English and 153 of the German. This document consists of commercial committee minutes of 27 May 1940 to which was attached a strictly confidential item which appears on page 114 of the English and page 160 of the German. This item appears under the heading "M Question". In this item the results of the conference in Kissingen are discussed and Schnitzler, with the full participation of the commercial committee, was placed in charge and arrangements are made for the defendants von Schnitzler and Mann to take care of a special case pending at that time.

The prosecution offers as its Exhibit 932, Document NI 1448, which appears on page 116 of the English and 164 of the German. This document consists of a letter from the defendant Schnitzler to Bloch, dated 10 April 1940, concerning the financing of orders for Bloch to be carried out by the Association for Sales Promotion.

The prosecution offers as its Exhibit 933, Document NI 1449, which appears on page 117 of the English and 166 of the German. This document consists of a letter from Schnitzler to Puttkammer, dated 15 April 1940, concerning payment for orders for Major Bloch.

The prosecution offers as its Exhibit 934, Document NI 1450, which appears on page 118 of the English and 167 of the German. This document consists of a note, dated 5 July 1940, concerning a conference with Bloch on the subject of financing orders from the OKW to be carried out by the Association for Sales Promotion. The defendants von Schnitzler and von der Heyde were noted as being present from I. G. Farben. The last sentence of the document states - this is page 118 of the English and 168, I believe, of the German:

"Particular cases, like the case Boehmer-Spain already settled, will be settled individually between Major Bloch, the I. G. and the Research Society in due course."

The prosecution offers as its Exhibit 935, Document NI 1301, which appears on page 119 of the English and 169 of the German. For some reason not entirely clear to me, the English document book contains first a page showing the English and then a page showing the German. This document consists of correspondence of July, 1940, between Rheinbaben and the defendant Schnitzler. The first letter, appearing on page 119 of the English and page 169 of the German, states:

"Dear Herr von Schnitzler:

"I beg to repeat my telephone request in detail:

"Since the beginning of war I am in a loose form assigned to the office von Ribbentrop and have executed various orders in this time. It is now intended to send me as soon as possible to Madrid and Lisbon. Dr. Hesse, the competent man should be very glad if a firm like I. G. would be prepared to address to me a pro forma letter with the following contents:

"Dear Herr von Rheinbaben:

"We should be very glad if you could soon travel to Madrid and Lisbon in order to call on our agencies and to inform them according to our verbal arrangement."

"Of course no expenses would be incurred to you and it is also a matter of course that I should only make use of such a letter to prove at the frontier or at Madrid or Lisbon, if necessary, that the purpose of my journey is 'business'."

Schnitzler replied to this request, suggesting, and I read at page 21 of the English and page 171 of the German. That is page 121 of the English:

"Dear Herr von Rheinbaben:

"In reply to your kind letter of 17th July I regret to inform you that we cannot give you a letter for Spain and Portugal as desired by

you. We have to take great care not to endanger our foreign organizations by any action which cannot be justified in more business. Considering that you are member or chairman of the supervisory board of various insurance companies, one of those companies should be in a position to give you a cloaked order concerning the study of the Spanish and Portugese markets particularly on their prospects and possibilities in the sense of modern economics. In case that should not be possible it might be considered that a small advertising company of which I am the chairman of the administrative council, would give you such a cloaked order. The firm in question is the Studiengesellschaft fuer Verkaufsfoerderung und Werbung, of Kurfuerstendamm, which in a professional style prepares market-analyses abroad. If you should make use of this way, I would gladly transmit you a letter of introduction to the manger of this company, Herr Kuenzler, with whom you might confidentially discuss your case."

In the Schnitzler affidavit, appearing in Document Book 16, NI 5198, and which was Prosecution's Exhibit 251, Schnitzler describes what he believed to be the activities of Rheinbaben in Portugal and included in that description observations of shipping movements in the harbor, etc.

The prosecution offers as its Exhibit 936, Document NI (sic). I believe the prosecution will omit the introduction of this document which is marked NI 7609 and consists of an affidavit for the reasons previously stated in connection with affidavits.

THE PRESIDENT: It's about time for our recess before we start on any more documents.

Before the Tribunal rises, we would like to say that we have been very much pleased and gratified with the manner in which counsel for both sides have cooperated in respect to the suggestions that the Tribunal has made calculated to shorten the trial and lighten the record. We can't escape noticing, however, that once we establish

some of these good practices there is a slight tendency to get away from them from time to time. In connection with the documents which you introduced today, the Tribunal is of the impression that a good deal of time could be conserved if the quotations from the documents were reduced somewhat and were not so lengthy. We don't care to disturb the manner in which this book is being presented. You may go ahead and complete it according to your own way, but when we get to the next book, let's see if we can't get back on the old practice of shortening the quotations and therefore lessening the burden on the record.

The Tribunal will now rise for the recess.

(A recess was taken.)

THE MARSHAL: Military Tribunal No. VI is again in session.

MRS. KAUFMAN: The Prosecution proceeds with Document Book II. The Prosecution offers as its Exhibit 936 a document marked NI-1322 appearing on page 128 of the English and 175 of the German. This document consists of a letter dated 9 November 1943 from "WIPO" to Director Overhoff in Frankfurt concerning a request by the German Ministry of Economics to employ a Lieutenant Colonel Becker of the Abwehr in Spain and to cloak his activities.

The Prosecution offers as its Exhibit 937 a document marked NI-11333 which appears on page 132 of the English and 180 of the German. This is a sworn statement made by Hirokawa Ikuzo taken before a member of the Investigation Division of the International Prosecution of General Headquarters, Supreme Command of the Allied Forces in the Pacific, on 16 July 1945 concerning the activities of Jesco von Puttkammer, von Puttkammer, who was concerned with the Research Association, in which he states that Jesco von Puttkammer was in charge of German propaganda in Shanghai and that he also submitted intelligence reports to the Japanese Army.

THE PRESIDENT: Pardon me, Counsel. did you intend to omit Document NI-1300?

MRS. KAUFMAN: NI -- what? I am sorry.

THE PRESIDENT: 1300.

MRS. KAUFMAN: No, I did not intend to omit it, Your Honor. Would you care to make your statement?

DR. HOFFMANN: Dr. Hoffmann, counsel for the defendant von der Heyde.

Mr. President, the document, Exhibit 936, is being submitted by the Prosecution not in the German original form, but in the form of a translation. It says, and I quote, "a translation from the German original". I assume that the original should be submitted which is the copy in the German language.

MRS. KAUFMAN: The original of the document in question is not in the hands of the Prosecution. However, this document is a document taken from

the official Government sources and is certified to.

THE PRESIDENT: Do you know anything about where the original may be?

MRS. KAUFMAN: I don't believe that I have any knowledge as to where the original document may be. It is one of the documents which was among the captured documents and concerning which the translation was made in the course of an official investigation. The original of this document has not been in our possession.

MR. SPRECHER: That is to say, Your Honor, the translation was made in the United States or at least not by this organization, and all that ever came to our attention was this translation from an official document which had been reproduced by an official agency. I think this is a very exceptional case. I do know it has occurred in one or two other cases, particularly where the original was lost after a translation had been made in this building, and then the translation was used and then a retranslation back to the German made. I can give one case for that before the IMT where we had to use in the case of the defendant Fritzsche the British Interception Office radio broadcasts which were only available by the translation, and then we had to have them retranslated back to the German. Of course, it does bear on the factor of weight.

THE PRESIDENT: The situation is hardly that of a lost document. If a document was lost, and there was a copy of it in whatever language, it would probably be admissible under those circumstances.

MRS. KAUFMAN: I will state that the Prosecution has made every effort to locate the original of this particular document without success, and that the translation which has been introduced in evidence appears in an official Government report known as the Kilgore Report and is reported therein in the language appearing in this exhibit.

THE PRESIDENT: Do you have access to the official publication, the Kilgore Report?

MRS. KAUFMAN: Yes, we do, Your Honor.

THE PRESIDENT: That might meet your situation by offering an official Government publication, but the question that arises here is this: Not

infrequently there is some question raised as to whether or not a translation is proper, and if this is admittedly a German document and there is no showing as to what has become of the original, we might find ourselves in somewhat of a difficult situation. The Tribunal does not want to undertake to advise Counsel as to what should or should not be done, but you might survey the question as to whether or not you can make your proof by offering an official Government publication which contains what purports to be a translation of this document.

MR MRS. KAUFMAN: May I inquire as to what is the status of this exhibit before the Court now?

THE PRESIDENT: It is in evidence now, but it will be understood that Document NI-1322 which was identified as Document 936 and introduced in evidence by the Prosecution is subject to the objection of Counsel for the Defense. We are not going to charge our minds to remember this, and we will put the burden on Counsel for the Defense after he has consulted with the Prosecution to raise a question subsequently if he still wishes to question the admissibility of this document. We will allow the record to stand, but we will grant to Counsel for the Defense the right to hereafter renew his objection after the Prosecution has made such a showing to him informally as it can as to this being an authentic translation.

Dr. Hoffmann, do you understand our ruling, or did I go too rapidly for you?

DR. HOFFMANN: No, Your Honor. I understand your ruling. Your Honor, may I just add one more thing?

THE PRESIDENT: Certainly.

DR. HOFFMANN: I naturally bow to the ruling of the Tribunal, but I didn't quite understand whether the Tribunal took notice of the fact that this document bears no signature. In the case of all these documents which bear no signature, it is very difficult for us that they can be admitted as captured documents on the basis of Ordinance No. 7, but if

we are to be subject to a greater disadvantage that even a translation is to be admitted without signature our situation becomes increasingly difficult.

THE PRESIDENT: Well, the President does not wish to assume the personal responsibility at this time of passing upon whether or not this document shall or shall not be admitted in evidence. What he does suggest is that the Prosecution make available to you whatever information it possesses with reference to this document. That may obviate your objection. If it does not, you are free and at liberty to renew your objection, and then the Tribunal will pass on it.

MRS. KAUFMAN: I did omit Prosecution's Exhibit marked NI-1300 in error and I should at this time like to offer it as Prosecution's Exhibit 937.

THE PRESIDENT: Now if you do that, then are you going to change the exhibit number of Document 11333 to 938?

MRS. KAUFMAN: Well, I will offer this as 938 to avoid any complications in the record.

THE PRESIDENT: Very well; that will be all right.

MRS. KAUFMAN: This document which appears on page 130 of the English document book -- and unfortunately I do not have the page reference of the German document book -- is a letter of 26 January 1941 from Puttkammer of the company for sales promotion to Schnitzler in which he refers to activities in Shanghai, and states that he trusts Schnitzler is satisfied with the progress of the company.

The Prosecution offers as its Exhibit 939 a document marked NI-11334. This document which appears on page 138 of the English and 184 of the German consists of a certified copy of the Charge, Bill of Particulars and Findings in the case of the United States against certain persons including Jesco von Puttkammer before a military commission convened by authority of the Commanding General, Nanking Headquarters Command, in which Puttkammer was found guilty of the following charge,

which I shall read, and sentenced to be confined at hard labor for thirty years. I read at page 139 of the English and 185 of the German an item under number 17:

"That between 8 May and 15 August 1945, JESCO von PUTTKAMER, in his position as head of the German Information Bureau, Shanghai, a military propaganda agency of the German Embassy to enemy -- occupied China, did thereat individually and by his agents wilfully and unlawfully engage in military activity against the United States and its allies, to wit, psychological warfare by designing, preparing and furnishing to the Japanese armed forces for their use propaganda material in the English language consisting of inter alia, leaflets, posters, and photographs designed to influence, adversely to the United States and its allies, the actions of United States troops and civilian populations; and that he did wilfully and unlawfully furnish military advice, information and intelligence to the Japanese armed forces."

The Prosecution would at this time refer to Document Book XXXXV which contains Prosecution's Exhibit 823 marked NI-11196 appearing on page 179 of the English and 242 of the German. This is a letter from Sydney Redocker who was an American consul in Frankfurt at the time of the outbreak of war against the United States, to Lawrence Linville of the United States Department of Treasury transmitting information taken from a report prepared by the former assistant commercial attache of Shanghai dated October 27, 1942, showing the role played by I. G. Farben in financing of Nazi activities in China. I read from page 180 of the English and page 243 of the German. This is the second paragraph which states:

"The matter of financing German activities of this nature in Shanghai and in other cities of occupied China naturally would have been a difficult matter after the outbreak of Russo-German hostilities in late June, 1941, which cut off mail communications previously operating freely between Shanghai and Germany via Siberia. But the Germans were all prepared for this contingency in that their scheme of operations involved the financing of the Nazi Party propaganda activities in China out of the funds of German firms, principally I. G. Farbenindustrie. At least ten members of the staff of I. G. Farbenindustrie in Shanghai belonged to the official German Gestapo and were active in various forms of Nazi Party political activity in China."

The Prosecution offers as its Exhibit 940 a document marked NI-650 which appears at page 141 of the English and 187 of the German. This document consists of a letter from Major Bloch, Lieutenant Colonel in the Supreme Command of the Wehrmacht, to von Schnitzler. He states at 141 of the English and 187 of the German:

"Dear Dr. v. Schnitzler,

"By order of the Army Personnel Office dated 1 April 1943
I shall shortly take over a battalion in the East. I shall
therefore leave my present office and must express my
sincerest gratitude for the lively interest and extensive
assistance you have rendered to our service.

"My successor is Lieut.-Col. Focke; he intends to establish
contact with you as soon as possible.

"I request that you continue our present good and confident
cooperation with my successor as well."

On the following page we have a reply which states:

"Dear Lieut.-Col. Bloch,

"Many thanks for your pleasant letter of the 19th April and my best
wishes for success in your new position.

"I shall consider it my honorable duty to cooperate with
your successor, Lieut.-Col. Focke in the same way in which I cooperated
with you."

The Prosecution offers as its concluding exhibit in Document
Book II Exhibit 941 marked NI-7627 which appears at page 143 of the
English and 189 of the German. I read at page 143:

"Dr. Georg v. Schnitzler

"Member of the Vorstand of I. G. Farbenindustrie

"Dear Dr. v. Schnitzler,

"I want to inform you that I shall leave Berlin and my
present office shortly to take over a front command. I feel I must
write to thank you for the valuable assistance you have given to my
office. I shall always have a pleasant memory of the personal and
official cooperation with you. I should like to take this opportunity
to ask you to assist my successor, Lieutenant Colonel Hansen, in the
same manner in which you have helped me."

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The document contains a signature and I believe the English translation does not refer to it. The signature is that of Pickenbrock, who was the superior to Major Bloch. There is a reply to this document by Schnitzler which appears on the next page and states?

"To

Colonel PIEKENBROCK, General Staff
Chief of Abwehr Department I
in the Armed Forces High Command
Berlin

"Dear Colonel,

"I want to thank you for your kind letter of 15 March and express my best wishes for your new front command.

"It was always an honor for me and my colleagues working here in Frankfurt on the foreign business to place ourselves at your disposal at any time for your special tasks, and we shall of course continue to do so in future, after you have given up your office to your successor, Lt. Col. i. G. Hansen."

MR. SPRECHER: May it please the Tribunal, that concludes the proof which the Prosecution is offering principally concerning Section G of Count I of the Indictment. It would be helpful if the Defense counsel present could communicate with the other Defense Counsel with respect to what other affidavits in the document books were omitted—there were several. If we could possibly have Dr. Boettcher informed by all the Defense counsel with respect to which witnesses they wish to have called, where available, for cross-examination. And since we will be going into documents some time—I think most of next week—with some exceptions, we would like very much the week after that to get to some of these witnesses, if possible. Since it takes sometimes a week to order in these witnesses, we would like very much to be able to start that process, where necessary, at the early part of next week.

THE PRESIDENT: May the Tribunal inquire of you, Dr. Boettcher, if we should direct counsel for the Defense to advise you by day after tomorrow morning as to their desires with reference to cross-examining the authors of these affidavits that have been introduced by the Prosecution? Do you think that would be a reasonable notice?

DR. BOETTCHER: (Counsel for defendant Krauch): Mr. President, I understand that I am to have a statement by all Defense counsel, declaring which of the affiants under 1 G of the Indictment they wish to cross examine. I shall demand such a statement from all Defense counsel tomorrow morning, and I shall fix a deadline for Friday at nine o'clock in the morning.

THE PRESIDENT: The Tribunal will therefore take the position that unless Dr. Boettcher is authorized by Defense counsel to report otherwise, we shall consider as waived cross-examinations on Friday of which we do not have notice at that time. We trust that the counsel will not put Dr. Boettcher in an embarrassing position, but we are simply trying to aid him in the discharge of a rather arduous task. In other words, this is a case where your silence may be construed as

having amounted to a waiver. If you do not let him know by Friday morning, and he reports that he has not heard from some of you, we shall be obliged to treat that as a waiver on your part.

DR. GIERLICH (Counsel for defendant Schmitz): Mr. President, I should be grateful if the Prosecution would make a clear statement to the Defense whether the document books in which affidavits are contained which were temporarily not offered in evidence — and I am referring to the document books which were submitted today — are being waived finally if no notice is given, or do we have to, perhaps, expect that the same affidavits will again be submitted at a later date? I could well imagine that this question in some case or other where these affiants have made other statements is of importance for the Defense when they make the decision.

MR. SPRECHER: The Prosecution, of course, by not offering these documents has not in any way placed them before this Tribunal. We have no intention of putting them before the Tribunal during the case-in-chief, at any rate.

THE PRESIDENT: It would follow, likewise, that if the Prosecution should later see fit to offer documents, it would then be necessary to produce the witness for cross-examination as to such documents, unless there is a waiver after the documents have been introduced in evidence.

While we are on this matter of the cross-examining of the persons who have made affidavits, the Tribunal wishes to suggest to counsel for the Defense that they are free to avail themselves of the matter of submitting interrogatories in lieu of having the witness produced for personal cross-examination, if you wish to utilize that method. In other words, it may be in many instances unnecessary to have the witness produced, provided you were permitted to submit interrogatories to be answered by the witness and the answers placed in your hands so you can place them in the record.

We offer that suggestion just as one means that may, in some instances, simplify and facilitate the trial. We are not imposing on you in any way whatever the obligation to use interrogatories unless you elect and see fit to do it, instead of orally examining the witness.

Do you have anything else, Mr. Prosecutor?

MR. SPEECHER: Mr. President; while we are on this general subject I think I might make one or two announcements in that connection also. Dr. Boettcher informed me that the affiant Wilhelm Keppler, E.-a-p-p-l-e-r-, is also waived for cross-examination by the Defense, and should be added to the list which was read into the record yesterday.

THE PRESIDENT: Unless there is objection at this time, the Tribunal will direct that the Prosecution need not present the witness Wilhelm Keppler for cross examination because cross-examination has been waived by all of the Defense. There being no objection, the cross-examination of this witness is deemed to have been waived.

MR. SPEECHER: Now, Your Honors, may I bring you up to date so that I am sure the record is clear with respect to at least four other affiants? The affiant Eckert, E.-c-k-e-r-t-, will be deferred until Count 2, since his affidavit relates directly to Count 2 and it would appear to both Defense counsel and the Prosecution that it would be more appropriate to bring him in at that time. The Defense wishes to defer decision with respect to the calling of Paula Ester, E.-s-t-o-r-, who was the secretary of the defendant Schmitz, until a later time, and that is agreeable with the Prosecution. The witness Jacobi is in the U.S., and I do not think can be made available for cross-examination. I would therefore like to indicate that it is the Prosecution's view that the Defense should avail itself of interrogatories. The witness Jacobi is a former Farben official and a very educated man, and I think he can

make a proper retort to properly directed interrogatories. With respect to the affiant Kurt Krueger, he is being deferred until at least Count 4 because he has given affidavits which have a bearing on Count 2. The affiant Werner Mansfeld is being deferred to Count 3 because his statement principally relates to that Count.

Dr. Boettcher has stated, with respect to the affiant Speer, that he has made arrangements to see Speer in his place of confinement, in Berlin — or that some of the Defense have—and that after they have seen him they will make further recommendations.

Did you have something, Dr. Boettcher?

DR. BOETTCHER: Your Honors, with respect to the statement made regarding Jacobi, I should like to put a basic question. I know from the Flick Trial that wherever witnesses cannot be procured by the Prosecution for purposes of cross-examination the Tribunal has stated that in such a case the affidavit must be withdrawn and cannot be submitted by the Prosecution.

THE PRESIDENT: The Tribunal is not presently advised as to what the precedents may be in that respect. Neither are we disposed to force upon counsel the presentation of their views without some advance notice. Perhaps some morning, before we start in on the regular routine, it might be well for us to have a little discussion of that matter, at which time we would appreciate the advantage of any references as to precedents or rules that may govern that matter. In the meanwhile, if you gentlemen reach an amicable adjustment of the matter, the Tribunal will have no objection. Would you wish to suggest at this time when you would like to take that matter up? If interrogatories are to be submitted, and please do not understand that as any indication of what the Tribunal may rule. But I say, if interrogatories should be submitted, it is a matter that ought to be acted upon with reasonable promptness because that would take some time. So the President feels that the matter ought to be concluded in the very near future. If you can suggest

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whether tomorrow or Friday, or any day that you would be ready to present your views to us on that subject—we will be very glad to hear you. It ought not to take very much time to present it, but certainly we would be very glad to hear from you.

MR. SPRECHER: It would be convenient to both Dr. Boettcher and I if the time could be set for next Tuesday morning, at the opening session. That would give us time to canvass the situation which has developed. There may be some recent developments, for example, of which neither of us are informed, and that will give us ample opportunity to prepare ourselves and perhaps to make our presentation shorter.

THE PRESIDENT: Then we will have the understanding that the Tribunal will listen to your views on that subject before we start the regular routine of the day on next Tuesday morning. I shall ask counsel to remind me of that fact when we open Tuesday morning, if it escape my mind.

MR. SPRECHER: Then the Prosecution will call as its next witness Dr. Heinrich Dickmann.

THE PRESIDENT: The marshal will escort the witness called to the witness box.

MR. SPRECHER: Before the witness is brought in, I can perhaps announce the three documents in question: Prosecution Exhibit 669, which is in Document Book 31, English Page 19, German Page 17; that document is NI-10540. The second affidavit is Exhibit 735, which is NI-10536, that is in Document Book 38, at Page 13 of the English and Page 19 of the German. The last affidavit is Exhibit 920, which is in Document Book 49, at Page 81 of the English. It was just introduced today. I don't know the page in the German, but the Index will inform Defense counsel.

HEINRICH DIEKMANN: a witness, took the stand and testified as follows.

THE PRESIDENT: (To Prosecution) Are you ready to have the witness sworn?

MR. SPRECHER: Yes.

THE PRESIDENT: The witness will remain standing and raise his right hand, Say "I" and state your name.

WITNESS: I, Heinrich Dickmann ...

THE PRESIDENT: And now repeat after me: swear by God, the Almighty and Omniscent, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

The witness may be seated. Prosecution may proceed.

DIRECT EXAMINATION

BY MR. SPRECHER:

Q Dr. Dickmann, state again your full name, for the record.

A Heinrich Dickmann.

Q Your present address is what?

A Hirschhorn on the Neckar.

Q And what is your present employment?

A I am a chemist at the Badische Aniline and Soda Factory, at Ludwigshafen.

Q And what was your position just before the German collapse, in 1945?

A I was the head of Vermittlungstelle W, for the sphere of Sparte 1.

Q Now, you have before you three documents which were discussed with you either by me or Mr. Charnatz in the last few hours, is that correct?

A Yes, one of those documents was only given to me today - my affidavit. I just heard a number mentioned--10,924. Was it 24 or was it 20?

Q Twenty-four, and that is Exhibit 920; you couldn't know that, witness, because the document was just introduced.

A I see.

Q Now, you did discuss all three of these affidavits with either me or Dr. Charnatz in the last day, is that correct?

A Yes.

Q Now, at the time American representatives came to you to discuss questions concerning the preparations of this trial, were you advised of the obligation for telling the truth and the penalty for perjury?

A I was asked whether I was ready to swear to what I was going to state, and I affirmed that question; as far as I know, no other explanation was given to me.

Q Well, it states at the heading of one of your affidavits that you were advised of the penalty for making a false statement, is that correct?

A No mention was made of any penalty.

Q Did you read the heading of the affidavit, the formal part of the heading of the affidavit, at the time?

A Yes.

Q And you understood at that time that there was a penalty for making a false statement, is that correct?

A Yes.

Q Now, you have pointed out one or two errors. Will you first take the Exhibit 669; in the section numbered 2, in the second paragraph, you have a correction, have you not?

A Yes.

Q Will you state that for the Court?

A I stated that at the beginning of this statement referring to WIFO, it should read, and I quote: "Ordinarily before the establishment of a plant, like Docberitz, the WIFO drew up an estimate of costs, in order to find out ...etc. There is hardly any difference there.

All my other corrections were corrections of typographical errors.

Q Now, you have no errors of substance to point out, then, further in that affidavit?

A No.

Q Let us turn to the next, Exhibit 735. Do you have any additions or corrections to make to that affidavit?

A Yes. There were only typographical errors in the mimeographed text.

Q All right. Will you turn then to the next document, which was introduced here today? That is the last one, Exhibit 920. That is the one that discusses your position as an Abwehr representative. That is NI-10924. Do you have any additions or corrections to make to that affidavit, Dr. Dieckmann?

A No, only the typographical error.

Q Well, as I mentioned to you this afternoon, the original goes into evidence, and if some mistakes are made in the German copy which are not understandable to the Defense counsel, they can point that out, or we can take it up outside of the record.

MR. SOLECHER: No further questions by the Prosecution.

THE PRESIDENT: Does the defense desire to cross-examine the witness on the stand?

DR. DIX (Counsel for the Defendant Schneider): Before beginning the cross-examination, I should like to touch upon a question which is of importance for the affidavit as well as for the cross-examination.

In the English text the word "Abwehrbeauftragte"---was translated with Counter-Intelligence Agent. In the German language the word "Agent" means that the man concerned in the active intelligence service, whereas the Abwehrbeauftragter of these firms, were normal employees whose primary duty was to protect their respective firms against foreign sabotage, and that under the control and supervision of the Wehrmacht. In general, these Abwehrbeauftragten concerned with the Intelligence service only during the war, and in most firms probably not at all. I think it is possible, however, I am not quite sure that the word "Agent" does not meet the sense properly, and since the first half of the word was not translated literally-I mean the word "Abwehr", which

actually means "protection"- against foreign intelligence service, but later on the German side included the active intelligence service. I suggest that the word Abwehrbeauftragter, be left in German. I suggest that because I think the word "agent" in that connection ambiguous. I have just received a suggestion that one should translate it with "Abwehr representative." Perhaps that would meet the sense better.

THE PRESIDENT: Just a moment, Doctor. We would be interested to know whether or not the prosecution can concede the suggestions you have made or whether this is a matter of controversy.

MR. SPEACHER: It is, Your Honor, a matter of controversy. We would suggest that a possible solution may be the word "security officer", but we do wish to point out that are several representations which have just been made which we do not think are completely full; for example, Abwehr is the official word that is used by the German Army concerning its intelligence branches; and also representation was made that these representatives, these Abwehr representatives in the plants, were responsible or under the direction of only the plant in the OKW. We have already placed in evidence a directive which indicates that at one stage they came under the direction of the Gestapo, and we are merely offering that in connection with this explanation.

THE PRESIDENT: Well, the Tribunal has the benefit of your suggestions. It may be the subject of some future inquiry and consideration, but Counsel for the Defense has his statement in the record, and he may proceed with his cross-examination.

CROSS EXAMINATION

HEINRICH DIECKMANN.

BY DR. DIX (Counsel for the defendant Schneider):

Q I shall with Document NI-10540, Exhibit 669, English Document Book 31, Page 19; German Document Book 31, Page 17.

Dr. Dieckmann, as you state in the initial paragraphs of your affidavit, you were of the heads of the Vermittlungsstelle W, for the

sphere of Sparte 1. Would you briefly describe, please the origin and the purpose of this Vermittlungsstelle W?

A I have to explain first of all, that when the Vermittlungsstelle W was founded, I was not yet the dean. Concerning its foundation therefore can only refer to what my predecessor told me. I can speak about this department as from the year 1935. As to the sense and the purpose of that department, I have to state that agency like the Vermittlungsstelle W, seemed to be absolutely essential, for a large concern as I.G. Farben. It was essential for reasons of production economy alone. The inquiries from the authorities when I entered the Vermittlungsstelle had already assumed such a large extent and were ever increasing, so that many journey usually would have been carried out by the chemical engineers and heads of the various firms, something which would have been very uneconomical and taken up a lot of time, could have been settled in a much more expeditious manner if, within the fields of the Sparte, a few people were sitting in Berlin, experts who were familiar with most questions which had to be settled between the authorities and the many plants.

(Continuation of answer)

From economical and productive points of view alone, this agency was very essential.

Then, a large concern like that found it convenient and necessary for the Vorstand that not every plant would individually send a representative to Berlin, and that all enquiries from the Wehrmacht, from ministries, and from Reich agencies could be dealt with independently of the Vorstand, so that the Vorstand often knew nothing about them.

What was necessary was the creation of a central agency which would deal with all of these inquiries and could always make an immediate report to the Vorstand and to all interested parties. Such a measure, to us, seemed to be absolutely necessary and advantageous.

Q: What was the character of this Vermittlungsstelle W, and in particular was this Vermittlungsstelle W something which was considered to be an individual within the I.G.?

A: Well, what does an "individual department" in a large concern like I. G. mean? Where does that begin and where does it end?

Q: Well, I admit that my question was improperly put. Just speak about the general character.

A: Well, we were a department which dealt with the wishes and inquiries of the authorities and tried to settle such inquiries as expeditiously as possible. That is, we gave all of the plants the advantage that we knew our way about in the confusion of agencies, ordnance offices, and OKW, etc., and that we were always able to direct people to the proper authorities, and also could tell the authorities where to turn to the proper department within the I.G. Naturally, we were a separate department.

Q: Very well. Then you were some kind of a mediation office and a mail distribution and inquiry direction agency?

A: Yes.

Q: Now I have one more question to you regarding the relationship of the Sparte representatives to one another within the Vermittlungsstelle W.

A: How do you mean?

Q: I meant the Sparte representatives, and not the Sparte heads. I meant the relationships of the Sparte representatives within the Vermittlungsstelle W. You were one of those Sparte representatives?

A: Yes.

Q: Well, what was the relationships of those to one another?

A: Well, we were working alongside of one another, and we were sent there by the Sparte offices. We were working completely independently of one another. There was no head. The Vermittlungsstelle had no personnel head.

Q: Thank you very much. You have already indicated that the Sparte heads, who are sitting here, had no practical influence in the Vermittlungsstelle-W?

A: Well, they would have had such an influence, but they made very little use of it.

Q: Very well. What role did the so-called mobilization questions play in the Vermittlungsstelle-W?

A: Well they certainly did not play the same part as one would gather from the indictment, if I may say so. In order to illustrate it to you, I could say that less than 5 per cent of the time was used for matters like that. If you ask me as to importance, I do not know what you are getting at.

Q: I just wanted to find out what its significance was.

A: Well, the mobilization questions only developed in that department.

Q: I have one more question of clarification. I have just been handed a little piece of paper saying that the translation came through that reports were always made to the Vorstand. As I understood it, the witness said exactly the opposite. The witness said the Vorstand could not at all times be informed.

I think that the witness has already answered that. Not even the three Sparte heads concerned themselves about the Vermittlungsstelle-W, much less the Vorstand; is that true?

A: Well, the Sparte heads are members of the Vorstand, aren't they?

Q: Certainly.

A: Whom are you referring to, the heads of the Sparte offices?

Q: No, I am now referring to the Vorstand members. You said that they were not informed, as I heard it, and I hear that the translation came through that the Vorstand was informed.

A: I said that the Sparte heads concerned themselves very little about us. No mention was made of any reports, so far as I can remember.

Q: That is good enough, and the same applies to the Vorstand as a whole, doesn't it?

A: Certainly.

Q: Now with reference to the mobilization plans, I have a number of questions. Is it not true that the I.G. Vorstand as a whole had hardly any detailed knowledge about these mobilization plans? Or did they?

A: Well, I cannot give you any binding answer for all of the Vorstand members. I can only say that I, and also my other colleagues from the other Sparten, at no time - reported directly to any Vorstand member. At no time was such a demand made by the Vorstand.

Q: Well, you couldn't possibly know any more than that.

A: I think it is quite probable that most of the members of the Vorstand knew little or nothing about such matters.

Q: Well, there are different kinds of mobilization plans, are there not? Could you please explain that briefly?

A: Well, the expression "mobilization plan" only developed as time passed. When I first entered the Vermittlungsstelle, there was a distinction between armament plants and non-armament plants. The ones were subordinated to the Wehrmacht, or the armament inspectorates, as they were called in our country. These were the so-called Rue plants, and they had to draw up exact mobilization plans upon request of the Wehrmacht. Sometimes mobilization calendars were drawn up. This was a book which was kept about such mobilization plans, where the respective periods were noted down. They were called Mob calendars. However, the IG had very little to do with that conception of the word.

There were perhaps two or three rather insignificant plants - I mean insignificant so far as their production goes - who at that time were considered to be Rue - Armament - plants, and which therefore had to draw up such a mobilization plan or mobilization calendar. All the other plants, more than 90 or more than 95 per cent of the I.G. plants and I.G. factories, did not fall into that category, but these were

all plants which were subordinate to the Ministry of Economics, and they, during the years of 1936 to 1937, did not have to draw up any mobilization plans. They only had to do that at a later time, but then that was not called a mobilization plan, but Belegungsplan. But that was similar to a Mob plan. The distinction was that these so-called Belegungsplanere meant a lesser change in production in case of war than mobilization plants. The Belegungsplan only means a certain channeling.

A mobilization plan at first consisted of a mobilization assignment, which in the case of a chemical factory is primarily a production assignment. It meant that this mobilization assignment was guaranteed with reference to many aspects, personnel, raw materials, fuel, transportation, etc. At a later date, the production assignments, as they were imposed on these non-armament factories, were not carried out in detail, but here too of course, the Belegungsplan had the effect that a non-armament plant, having to draw up such a Belegungsplan, could also have the benefit of securing its personnel, securing its raw materials etc. To that extent it does have some relation to the actual mobilization plan, although it was not as strict.

Q: In this affidavit with which we are now dealing, you make statements regarding so-called standby 'shadow' factories, which were the property of the WIFO, you said, and for which the WIFO made contracts with the I. G. In that connection let me ask you, is it not true that other firms also entered into similar contracts with the WIFO?

A: Yes, certainly.

Q: Could you please name some?

A: When building stand-by plants, the WIFO selected the firm which seemed to them to be best acquainted with that type

of production; they sometimes turned to the I.G. Other times, however, for instance, in the sphere of production with which I dealt - nitric acid - they usually also turned to the Bamac-Meguain. Therever, they first asked for an estimate of costs, and then they embarked upon conferences with their Ministry - the Ministry of Economics - and then they decided upon their own initiative whether they were going to build according to the I.G. process or according to the Bammert process. The chemical processes were different, and they had to select which one they preferred. They, however, had a permanent directive that not only did they have to select the cheapest process, but also, in case of war or mobilization, they had to select the safest process; they had to select the process which could really give the security that they could start into production almost immediately.

Q: Can you briefly give us shortly the names of some of such plants?

THE PRESIDENT: Just a moment. It is apparent that counsel will not be able to conclude this cross-examination today. The Tribunal is about to recess until nine-thirty in the morning.

The witness will be back in the box at that time.

MR. SPRECHER: Mr. President, with your permission I should like to give a little idea of our plans, so as to give as much notice as is possible to defense counsel and to your Honors concerning further affiants.

After this witness is finished tomorrow morning, we plan to call the affiant Schrader, S-C-H-R-A-D-E-R, and Gritzbach, and also the affiant Zeidelhack, Dencker, and possibly Koerner and Warlimont.

15 Oct 47 ⁴~~M~~PM-24-7-Stewart (Int. Ramler)
Court VI, Case VI.

Now there are some problems of arranging the time when some of the affiants who are confined can appear, and I have only now been informed that one or two of these witnesses have arrived, or will arrive, and I just cannot be more specific than that.

I understand from Dr. Boettcher that one or two defense counsel have complained, but I will do the best I can and give further notice tomorrow. That is the best I can do now.

THE PRESIDENT: Very well. The Tribunal will now rise until nine-thirty in the morning.

(Court in recess until 9:30 Thursday morning,
October 16 1947)

1947
16 Oct. - M-LU-1-1-Love, (Int. Ramler)
Court VI - Case VI

Official Transcript of the American Military Tribunal in the matter of the United States of America, against Carl Krauch, et al, defendants, sitting at Nurnberg, Germany, on 16 October 1947, 0930-1630, Justice Shake presiding.

THE MARSHAL: Persons in the court room will please find their seats.

The Honorable, the Judges of Military Tribunal VI.

Military Tribunal VI is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the court.

THE PRESIDENT: Mr. Marshal, are the defendants all present.

THE MARSHAL: All the defendants are present save Wurster and Hoerlein who are absent due to illness.

THE PRESIDENT: Are there any preliminary observations before we start the trial proper? If not the Marshal may escort the witness to the box.

DR. HEINRICH DIECKMANN, resumed.

THE PRESIDENT: Before counsel for the defense resumes the cross examination of this witness the Tribunal would like to admonish the witness to remember while he is on the stand to answer the questions that are propounded to him as directly and as briefly as possible. It is not proper for the witness to enter into extended explanations and discussions with respect to his answers. It is sufficient for him to remember that in any instance where counsel who is questioning him deems that he has not sufficiently answered the question counsel will propound another interrogation. We noted yesterday that the witness was disposed to extend his remarks too much. We do not say this in criticism of the witness because we assume, of course, that he is a layman and unacquainted with the court room procedure but we only ask his cooperation in making his answers as

brief as possible and ask him to remember that if his answer is deemed by counsel to be insufficient he may anticipate that another question will be asked that will afford him an orderly opportunity to make his statement. Counsel for the defense may proceed with the cross examination.

DR. HEINRICH DIEKMANN, resumed:

-CROSS EXAMINATION CONTINUED -

BY DR. DIX (Counsel for the defendant Schneider):

Q. In view of the remarks of the President, Dr. Diekmann, I should like to suggest to you, since I can't interrupt because of the language difficulties, that you should look at my right hand which will mean that I consider my question to be answered. We stopped yesterday at the question whether other firms received requests from the WIFO in order to build installations for them to lease it for them or to put them into operation for them. You already mentioned one firm already and I should like to say here that we are not concerned with the WIPO but the WIFO. The WIFO is an agency of the Reich and the WIPO is an agency of I.G. We are talking about WIFO, an agency of the Reich. You have already mentioned one enterprise which has been building for this organization WIFO. Is that true, witness, do you know of that at all?

A. Yes.

Q. Now Dr. Diekmann, did I.G. build these shadow factories on their own initiative?

A. Not at all on their own initiative. At all times they were built upon the request of the authorities.

Q. In the affidavit with which we are dealing at the present time you are mentioning that the I.G. in the case of these shadow factories had to have a mobilization calendar. In a case of Doeberitz it may be that I.G. was interested in having worked upon the military mobilization plan. Well how was it in the case of Doeberitz?

A. I have already said that the I.G. itself had not interest in

building armament installations because such installations from the point of view of peace only represented a competition with regard to their own production capacities in the respective field. In other words we tried to prevent the erection of such installations. By that I mean Vermittlungsstelle-W. However, if we could not prevent the erection of installations and if they had to be built upon the orders of the authorities then we were at least interested in seeing to it that they did not go into operation very quickly, especially not during the first years of 1936 and 1937 and 1938 when the I.G. had their own production capacities; for instance, in the field of concentrated nitric acid. If, however, we wanted to reach a full capacity of the I. G. plants then we asked for Vermittlungsstelle-W to draw up a mobilization plan and in that we saw proof to be shown to the authorities that we were all ready for production and with that proof we could tell the authorities that it really is not necessary for such shadow factories to be put into operation.

Q. I think that is sufficient. Now, one last general question with reference to that affidavit. Have you, in your position ever been informed reliably that also in other countries, for instance in Britain, shadow factories were erected.

A. One could read in papers and periodicals that something like that was being done. I remember once case when I received direct information about English shadow factories. I think that was perhaps in the year 1937 or 1938.

MR. SPRECHER: It is objected to as beyond the scope of cross-examination. The affidavits don't go into what the foreign countries may have or may not have done along this line.

DR. DIX: Let me reply to that very briefly; that the purpose of all these affidavits can be seen very clearly from their formulation. The purpose of these affidavits is to show a preparation of the I.G. for an aggressive war. I am convinced that this basic question concerns a well informed witness like the one we have here and therefore must

be admissible.

THE PRESIDENT: The Tribunal is disposed to hold and does hold that this is beyond the scope of the present enquiry. It is not, in our judgment, proper cross examination. We do not indicate or say that the defendant might not be permitted to make such a showing as bearing upon motives and plans and whether or not this could be integrated with an aggressive war but in any event it would be a matter of defense and not of cross examination of anything that we now recall as being within the four corners of the affidavit. The objection is sustained.

BY DR. DIX:

Q Now, witness, I am turning to Document NI-10538, Exhibit 735, English Document Book XXXX, page 13, German Document Book XXXX, page 19. In this affidavit, Dr. Diekmann, you are discussing the storing of substances of military importance. You say that you were not concerned with the storing of gasoline and oils. Do you know that the I. G. in the case of these products only possessed stores which were serving only current production?

A Yes. The large stores were with the "WIFO" which is a Reich agency. The I. G. plants did not possess such stores.

Q I am now turning to the next document, NI-10924, Exhibit 920, English Document Book II. I am afraid I don't know the page. It is page 81, Your Honor, and it is 108 of the German document book. The Abwehrbeauftragte, the defense representatives of the I. G., were established upon request of the authorities.

A Yes.

Q Yesterday you said that the I. G. had only very few armament plants in the sense in which we know them. Accordingly we see that the I. G. up to the time before the War had very few defense representatives.

A Yes. Only armament plants had these defense representatives.

Q In your affidavit you made brief statements regarding the main task of these defense representatives. In view of the discussion yesterday before the beginning of the cross examination, let me ask you the following: is it not true that the defense representatives initially only served and were subordinated to Abwehr III within the OKW?

A Yes.

Q And this Abwehr III was competent to deal with protection against the intelligence service of other countries and sabotage, in other words, defensive.

A Yes, purely defensive.

Q In your affidavit you go on to say in this connection, and quite justifiably, that the Abwehr representatives did not deal with Abwehr I. Abwehr I, as you said before, was the active intelligence service in the OKW?

A Yes.

Q Now let me ask you about the following: Don't you remember that during the War on the occasion of a conference with representatives of the OKW these representatives demanded and stipulated that the Abwehr representatives should be subordinated and responsible to the local Abwehr offices including tasks concerning Abwehr I, especially concerning foreign trips of technicians and business men.

A I don't know whether they had to. It should have been done in that way. It was said that every good German would do that.

Q That is sufficient. Did that happen very often as far as you experienced it?

A It was repeatedly tried. I do remember that. I don't know, however, to what extent it actually happened. In the case of my sphere, I wouldn't say that. In my sphere I was mainly concerned with Abwehr representatives in the plants of the I. G. However, it may be that they didn't tell me about everything.

Q Do you know Dr. Schneider's attitude regarding the taking over of the office of the main Abwehr representatives? Did he like taking that position over?

A No. I know very well that Dr. Schneider protested against this position for some time, and only after some time could a number of leading officials in the I. G. move him to take over that position.

Q Was Dr. Schneider very active in these matters, and did he have sufficient time for them?

A He certainly didn't actively deal with them.

Q Now I should like to put a question to you with reference to the cross examination that went on yesterday, and talk to you about matters concerning Abwehr in the OKW. Do you know that the Abwehr

during the latter part of the War was by compulsion subordinated to the SD?

A Yes. After the attack upon Hitler and since Canaris also belonged to that conspiracy, the military Abwehr which until that time was under the OKW was subordinated entirely to Himmler, and of necessity this entire organization therewith came under the SD. Up to that time it had been exclusively headed by the OKW. In this way it fell within the power of Mr. Himmler and therewith the RSHA.

Q Do you perhaps know that Colonel Hansen, who is mentioned in the correspondence between von Schnitzler and Colonel Piepenbrock, was hanged as the successor of the other gentleman because of his participation in the July plot of 1944?

A I had very little to do with Canaris, and I don't remember this matter about Mr. Hansen.

Q In your position as Abwehr representative, were you often questioned in the plants as to whether there was a danger of imminent war?

A We were often asked these questions not only by the Abwehr representatives but also by many colleagues and associates in the plants.

Q Well, what did you answer?

A I always expressed my conviction that there would be no war, that Hitler would not be as daring and foolish as to enter into a war, and that finally everything would be well.

MR. SPEECHER: May I ask Counsel in what that responds to the affidavit why he thinks that is proper cross examination? I would like in the absence of some showing as to why it is proper to object and have it stricken, but I don't like to object in case Counsel really thought he had a good purpose.

THE PRESIDENT: Does Counsel for the defendant wish to make any comment by way of explaining his purpose in propounding this question?

DR. DIX: Well, here we have the obvious connection between

preparation for war and the activity of the witness, and I don't think this is an inadmissible question. No objection was raised when the question was put. It was only because the witness said a little more than perhaps he should have that there was an objection.

THE PRESIDENT: Again, Counsel for the defendant, it is the view of the Tribunal that that is not proper cross examination, and again the Tribunal would observe that there may come a time when Counsel is entitled to establish that fact when it comes to presenting the defense. Unless Counsel for the defendant can call our attention to some specific part of one of the affidavits signed by this witness with respect to which this cross examination is now being conducted, we are inclined to think that that is beyond the scope of cross examination, and if competent, would come within the field of the defense, we would like to afford you an opportunity. We cannot keep in mind all the details of these affidavits and if you have in mind any particular recital in any of these affidavits that would be the basis for this cross examination, we certainly want to afford you that opportunity of calling it to our attention.

DR. DIX: May I examine that?

THE PRESIDENT: Surely.

DR. DIX: This brings me to the end of my cross examination. No further questions.

THE PRESIDENT: I may say to Counsel it is not the purpose of the Tribunal to deny you any proper cross-examination, and while one of your colleagues is questioning this witness, if you find in the affidavit or either of the affidavits any basis that you think would justify the questions which you have asked, we will permit you to come back and complete your cross examination after your colleagues are finished.

DR. LUMBERT: Dr. Lumbert, Counsel for the defendant Kuehne.

CROSS EXAMINATION

BY DR. LUMBERT:

Q Witness, I have a very few questions to you in regard to one

of your affidavits.

DR. LUMBERT: This affidavit can be found in Document Book II, No. NI-10924. This is on page 108 in the German document book, page 81 of the English document book II, Your Honor.

Q In this affidavit, witness, you said that already before 1937 to 1938 there was an Abwehr office at Leverkusen, the head of which was Mr. Werboeck. The passage to which I refer can be found at the middle of page 108 in the German document book. This is in the middle of the page of the English document book, page 81. I don't think that it is necessary for me to quote these passages into the record.

Witness, do you know that this Abwehr office in Leverkusen was founded already during the last years of the World War, that is, already in the year of 1918? Do you know that it was founded in order to prevent all of these mental and physical thefts which were going on all of the time?

A I know that this office was founded already at a very early date. I cannot give you the exact year, but I can say that the sense and purpose of this office was purely private and economic. It was in order to prevent these thefts of material and intellectual nature.

Q Do you know that this Abwehr office was chosen to become a central office of the entire I.G. when the head of this office, Mr. Mehrboeck, Police Commissar, succeeded, in 1920, to clear up enormous theft which had occurred, a theft by four chemical engineers of the plant. These engineers tried to escape to the U.S. with the information and material products which they gained. That took place in the year 1920.

A I only know that Mr. Mehrboeck reported to me and told me about many cases of that kind. I don't specifically remember this case as it occurred in the year 1920.

Q Do you know that this Abwehr office at a later date--maybe 1925 or 1925--had to be placed at the disposal of Military Abwehr Office?

A I know that Mr. Mehrboeck, already before the time of the Nazi regime, had close contact with authorities. I know that he had something to do with the legislation regarding plant espionage; he advised the authorities and submitted practical examples to them, etc., With regard to an order that they had to be placed at the authorities, I really cannot tell you anything. That means after 1933.

Q Witness, do you know that during the years, approximately, of 1936, demands and requests from the Military Abwehr Office to the Abwehr office of the I.G. were synonymous with a military order, practically?

A Such demands at least had to be replied; one could not possibly say no.

Q Witness, do you know that between Dr. Kuehne, the head of Leverkusen, and his representative, Dr. Brueggemann, both of whom were superiors of Mr. Mehrboeck, and do you know that the head of the Abwehr

Office Cologne, a certain Mr. Focke, had serious clashes when Mr. Kuehne and Brueggemann did not want to accede to the demand of Mr. Focke?

A I know that the gentleman Brueggemann and Kuehne always issued directives to Mr. Mehrboeck to maintain this office in its original character, and with its original purpose in mind—which was to maintain the private economic interest of the I.G. Farben in their old, original form. I cannot completely confirm your statement about Focke, but I do know that there were controversies with the authorities on various occasions.

Q Thank you very much. I have no further questions.

BY DR. HOFFMANN (Counsel for Defendant von der Heyde):

Q Witness, I should only like to ask you with reference to your affidavit, which is contained in Volume 49, page 81 of the English: you were an Abwehr representative from Vermittlungsstelle W?

A Yes, I was the Abwehr representative of Vermittlungsstelle W.

Q And since when?

A I do not know exactly; as far as I remember, it was in the year 1937 or 1938.

Q Von der Heyde was also an Abwehr representative. Do you know where he was an Abwehr representative?

A I cannot remember when von der Heyde became Abwehr representative. If he did have such tasks, I am sure they were meant for his own sphere, in Berlin NW 7. This Berlin office was separated from Vermittlungsstelle W.

Q When were you first coordinated with the tasks of Mr. von der Heyde?

A I don't know that, exactly.

Q Was it after the foundation of Office A?

A I believe it was before that.

Q Why do you believe that?

A I believe that because the foundation of the Military Economy Department in Berlin NW 7 (Wehrwirtschaftsreferat) was somehow in connection with the appointment of an Abwehr representative. Abwehr representatives were only appointed where an authority of the Reich considered a certain plant very important, from the point of view of armament, and wherever the expression "armament plant" was proper.

Q Very well, witness, but do tell me quite specifically when you were together with Mr. von der Heyde and coordinated with him as Abwehr representative?

A Coordinated in that sense, we were only after this Office had been founded; that was in the year 1940.

Q And what was your connection with him before that? Was it a close or a loose connection.

A It was very loose.

Q Would you perhaps elaborate on that somehow? What do you mean by "loose"?

A Dr. von der Heyde was known to me from Ludwigshafen, and we were colleagues in Berlin and we had a friendly relationship. In the field of military economy (Wehrwirtschaft) there were certain tendencies toward isolation on behalf of the Department NW 7 from the Department Vermittlungsstelle W. Consequently, I often had the feeling that matters concerning NW 7 were withheld from me by NW 7, and I never took occasion to inquire about these matters.

Q Witness, I am asking you about the Abwehr representatives. Was there any cooperation between them?

A Certainly there was cooperation. We often had discussions whenever there were conferences of Abwehr representatives of the various plants in Berlin. Perhaps we sometimes discussed an Abwehr plan which was demanded from the authorities. It may be; I cannot remember that specifically. I do remember, however, that we were together attending instruction courses which were held by the local offices in Berlin where we met occasionally, and where we had some discussion --

Q But--

A And this is what I mean by "loose collaboration" --

Q But there was nothing extra-ordinary about that?

A No.

Q Witness, do I understand you correctly if I assume on the basis of your statements that the statements you are making in your affidavit to the effect that you dealt with your commercial colleagues in the Vermittlungsstelle W, and that a number of matters were not pleasant, refers to the period after Office A was founded?

A Principally, yes, but it is possible that a few perhaps insignificant events occurred which took place before 1940, before Office A was founded.

Q At least you do not remember any such cases?

A No.

Q These cases must be so insignificant that you couldn't remember?

A The entire field appears to me--I couldn't exactly say "insignificant" but at any rate we did not have much time for it. We always had the impression from the technical gentlemen that they were not really interested in all these goings-on. That is why I say there could only have been insignificant incidents.

Q In other words, you do not mean to say in your affidavit that orders were suspected which von der Heyde was carrying out in your case?

A No, not at all.

Q Thank you. How was it after 1940? I mean, during the war, after the Office A had been founded? Was what von der Heyde's position and what was your position?

A If you want to take our occasional meetings as a gauge, you would find that at that period they were more frequent than before, but as to direct cases with which we dealt together--and I am referring to Abwehr cases--They were hardly any, at the time. The sales machinery was organized quite differently from the production machinery and this concerned the plants with which I dealt.

Q But I don't quite understand why you, in your affidavit, picture it as if a number of unpleasant matters had to be pushed on to others by you. What unpleasant did occur? According to your description there couldn't be any unpleasant matters?

A I have submitted five affidavits altogether. While having formulated most of these affidavits myself and while most of these affidavits were not dictated to me by the interrogator, this affidavit--

because it was practically only of a negative nature from my point of view; I mean negative from my point of view was dictated by the interrogator himself. Naturally, I took care to see that no incorrect matters got into the text, and in so far it is pure truth to my best knowledge but if you read this affidavit you will quickly notice that the manner of the formulation is not always mine.

For instance, I would not say: "Already before my appointment in the year of 1937 or 1938 I knew that there was an Abwehr office in Leverkusen." That sounds as secretive as you are just indicating the whole business. It looks as if this entire thing was an unpleasant task.

Counsel, this Abwehr office in Leverkusen was just a part of the Vermittlungsstelle which I was concerned with, for Sparte 1. I certainly would have chosen a different expression..., but really it is true, that I know that under me there was such a department.

Q I do understand you very well. It doesn't correspond with your character to push matters away from you and to make it seem as though you wanted to avoid responsibility. In other words, the whole formulation of the affidavit is not quite correct and somewhat unbalanced?

A Well, I wouldn't exactly say "unbalanced," but on the basis of various formulations one could gain such an impression as you have just stated. One perhaps could interpret it in that way. At any rate, I did not mean to say that there were irresponsible matters or secretive matters with which we were approached. If you are asked, "Were you active in Abwehr 1?" Then you say no. I wanted to demonstrate here that I was not active in the sphere of Abwehr 1.

Q But you did not mean to say, as it becomes evident from your formulation, that somebody who had to be active for Abwehr 1 would have to be criminal?

A For God sake, I certainly did not mean to say that.

Q Then in other words, if you had dictated this affidavit yourself, no such formulation would have occurred?

A Yes.

Q Thank you. Well, I really have no further questions to you, witness. That is sufficient.

DR. DIX: (Counsel for Defendant Schneider): I really have no further questions, really, but I just want to explain my last question.

These affidavits certainly contain matters regarding war and war possibilities, and in their formulation do not make any distinction between rearmament and preparation for war. I quote from these statements conclusions regarding the significance of the various plants for war economy could have been drawn, and it would have been easy, for the enemy Luftwaffe to destroy these military-essential plants by bombing.

In the next affidavit, Volume 40: "The storing of nickel had already been initiated, as far as I know, some time before the outbreak of war, perhaps in 1937-38. The substance stored was nickel ore as raw material for the production of pure nickel by use of the carbonyl of the I.G. As far as I participated in the negotiations, I remember that on the part of the I.G. it was always openly pointed out even towards the foreign (Canadian) partners (Mondnick) that it was a question of establishing a nickel reserve required by German authorities for reasons of strategic security...."

INTERPRETER: In the last affidavit, would you please tell counsel to give the page number?

THE PRESIDENT: Counsel, can you give the Interpreter the reference to the book and page of the document you are quoting from? He is having difficulty in following you.

DR. DIX: Forty-nine, page 109 of the German, 81 of the English,

"I know that before the war I was occasionally asked for information regarding technical questions by the gentlemen of the War Economy Staff."

I quote again: "I always can remember that photos of the German Luftwaffe were put before me and I was asked to give a technical explanation of these pictures!"

All these examples which I just read must of necessity bring about the impression as if the witness was exercising an activity which had to lead to imminent war. The purpose of my question was only to make a distinction armament, as such, and war, a basical limitation in the content of the affidavit which, in itself, only deals with rearmament and their consequences.

If the witness went beyond the scope of his answer, this was probably so because the witness in the affidavit could only make statements regarding matters which were put to him at the time he signed the affidavit. In other words, it is not my question which is somewhat beyond the scope but it is only due to this situation in which the witness made the affidavit, and that is why answered the way he did.

For that reason I ask you to admit that question. It was put to him by me because I thought that for the purpose of putting such a question the witness should not be called for direct examination again, and that expedite the proceedings.

THE PRESIDENT: Counsel, the Tribunal now has in mind the parts of the affidavit which you think provided the basis for your question. If you will now be kind enough to restate question for the benefit of the Tribunal and the witness, we will undertake to rule on its admissibility.

Just a moment please. Now, this is a question, Mr. Witness, to which an objection has been made which means that you shall not answer the question until the Tribunal tells you whether or not an answer would be proper.

DR. DIX: I must confess that I no longer know the exact text of this question, because, in view of the first objection of the Prosecution, I already limited this question. Therefore, I must ask you to have it read to me from the record.

THE PRESIDENT: That might occasion some delay; if any of the Reporting Staff can find it quickly we would be very happy to have it read. The Tribunal has asked you to restate it because it finds itself in the same predicament that you are in. In thers words, we do not at this moment have cclearly in mind your question , but you no doubt have in mind the subject of your question; and without consideration to the form of your previous question, if you will not just restate-- or rather state--a question which will elicit from the witness the information you desire, you may forget about the form of the preceding inquiry.

BY DR. DIX:

Q I have already quoted these passages of the affidavit which could create the impression as if your activity was in connection with an imminent outbreak of war. Let me ask you, therefore, whether you have any occasion at all to assume that an imminent war could come about, especially on the basis of your conversation with the authorities your conversations in the plant, etc?

THE PRPSIDENT: Now, will some member of the Reporting Staff indicate on his notes wherein this question just propounded to the witness may be found? We may find ourselves in a position to ask you to read it into the record to refresh ourmind in a moment.

The Tribunal will now hear the objection of the counsel for the Prosecution to the question.

MR. SPRECHER: We submit that it calls for the conclusion of the witness and asking him for his opinion concerning a vast number of experiences which he may or may not have had, and deductions that he would make therefrom. There was no such conclusions given by him in his affidavit. he was directing his attention in the affidavit to specific activities. The question of the conclusions to be draw from the facts are either for Your Honors or else for the defense during the Defense case.

(Court) The Tribunal has heretofore indicated that the state of mind of the people in Germany could not be established by showing the opinions of individuals or opinions of isolated instances - isolated groups.

If that was the sole purpose of this question, to show what this individual thought about the probability of war, we would sustain the objection to the question, but we are going to overrule the objection to the question upon this theory, and this theory alone, that the opinions that this witness entertained, with reference to the probability or improbability of war, might throw some light upon the weight to be attached to the facts and circumstances which relate in his affidavit. We are concerned that the ruling be not misunderstood. We are not opening the door to the establishment of what was the state of mind of the people generally, of Germany, by permitting an individual to express his personal opinion with reference to that subject.

We are limiting the purpose of this answer because we feel that it may throw some light upon the state of mind of this witness, when he made the affidavit, and may properly be taken into consideration in determining the weight to be attached to his affidavit testimony.

The objection will be overruled.

Does the witness now have in mind the question that was propounded a few moments ago by counsel for the defense?

BY THE WITNESS:

A Yes, I think I remember it sufficiently.

THE COURT: Then the witness may answer.

THE WITNESS: I can only reply that I, as the head of the Vermittlungsstelle-W of I.G. Farben in Berlin, was working for Sparte I, and that I and my associates did not believe in the eminent outbreak of war. Whenever we were asked by our colleagues, by our associates, and by our superiors, we always expressed this conviction

of ours.

THE PRESIDENT: Is there to be any further cross-examination of this witness by the defense counsel?

None being indicated, has the prosecution any re-direct examination?

RE DIRECT EXAMINATION

BY MR. SPRECHER:

Q Now first, witness, let me go to a statement you made in the early part of your examination yesterday. At least as it came through in the English, and as I understand it after it has been checked against the sound track, in order to find out just exactly what you did say.

In getting around to this I would like to ask you if you recall a number of instances in which you said that copies of correspondence which you signed, in Vermittlungsstelle-W were sent to Vorstand members, and I mention rather hurriedly Mureck, Conrad, Haefliger, ter Meer, and others?

A I would have to see such letters. In one year we passed on and received 10,000 letters, if not more. I assume though that if they are submitted to me, I should again remember.

Q Well for the moment, let's not submit any such letters to you but just let's ask you the simple question, did you send reports directly to named Vorstand members so that they got copies of reports you issued, for example, on the whole question of Abwehr and Intelligence, and Counter-Intelligence activities? Did you send them the copies directly?

A I do not remember having sent letters of Abwehr questions to Mureck, Conrad, or other people like that. It may be that circulars or requests which came to us from the authorities were sent on, in order to remind certain gentlemen in the Vorstand about Abwehr regulations, and about the assurance of the upkeep of such regulations. These were often circulated. In those cases it is quite possible that the men you

have just mentioned have also received such circulars.

Q I was only trying to refresh your recollection. I will pass to some other subjects. What about the purchase of WIFO nickel - the purchase of WIFO nickel? I am not merely talking about circulars. A number of circulars signed by you have already been introduced in evidence here, but I am talking about reports where you gave your view after having investigated a certain situation, and then I ask you whether or not you sent copies of some of these analyses of yours to Vorstand members or not?

A It would have to be an exception. As a rule I did not send such reports. At any rate I cannot remember any.

Q Was it an unusual thing for you then to send a report to a Vorstand member?

A Herr Sprecher, you are saying "such reports", but you hardly define them. You do not suggest what their content is. You are saying, "Sparte". My field was so large that it really is impossible for me to remember these details.

Q Well, I was not asking you to remember about a specific field. Take any part of your field. I will let you put the question yourself on that point. Take any part of your field. I am merely asking you for any part of your field that you recall having sent reports to, where you made an analysis to Vorstand members, or whether you don't?

DR. HOFFMANN, Counsel for the defendant von der Heyde?

Your Honors, I object. I know that cross-examination can only refer to what is contained in the affidavit, and that also refers to re-examination; since, however, the prosecution is referring to reports as such, matters which are not contained in the affidavit, I must object to this form of questioning.

MR. SPRECHER: Your Honor, the witness before me was asked a leading question, on the question of reports to the Vorstand, purportedly made a certain statement yesterday, and then after being asked,

and I think told, by the counsel that there must have been some misunderstanding, gave a somewhat different answer.

It seems to us that on that basis, it is quite important to refresh the recollection of this witness concerning the matter to which he testified first, before being asked the leading question.

THE PRESIDENT: It ought not to be necessary for the Tribunal to state again that leading questions are entirely all right and proper when cross-examining the witness. The Tribunal does not remember that counsel for any defendant went beyond the proper scope of the cross-examination yesterday or today. In the main we think that the cross-examination was proper.

We feel, however, that counsel for the defense has stated the functions of the prosecution too narrowly. The prosecution is not limited by any means to this affidavit, in the examination of this witness. He is a witness for the prosecution for all purposes. If the prosecution so desires, it may go completely without and beyond the scope of the affidavit and use the witness for any purpose that is calculated to support or sustain any of the charges in the affidavit, subject, of course, to having the witness cross-examined by counsel for the defense.

We made it clear when we passed this matter some time ago, that when the prosecution produced the author of one of these affidavits, he will not be restricted to the affidavit, but he may use the witness for any purposes, even beyond the affidavit. The only limitation we imposed was that counsel for the prosecution should not go over the same territory contained in the affidavit in his examination in chief.

This objection will be overruled. However, it might be proper to admonish counsel for the prosecution that he should not lead the witness, but should examine the witness as if he was his own witness, undertaking to prove by him, matters charged in the Indictment.

You may go ahead, Mr. Sprecher.

BY MR. SPRECHER:

1. You understand that I did not want to argue with you. I only wanted to put the question —

THE PRESIDENT: Now, Mr. Sprecher, let's please keep these remarks to a minimum, that are argumentative, so far as you and the witness are concerned. Will you please state directly to the witness a question, and if the question is deemed to be proper, the Tribunal will direct the witness to answer your question.

BY MR. SPRECHER:

2. The question is simply this. In any of your fields, which you just described as quite broad, did you make reports in which you gave analyses directly to Vorstand members?

A. I do not know what you mean, by "the analyses of a report" or analysis of a situation. Dr. Mueller-Conrad, the head of the Oppau plant, has received so many reports and letters from me, and after all, you must consider that the plant at Ludwigshafen and Oppau, was the plant with which we mostly dealt.

THE PRESIDENT: Now, Mr. Witness, the Tribunal fears that you are forgetting the admonition we gave you this morning. The question propounded to you by the prosecution was quite simple. You might, if the facts would justify, answer that question, "Yes,"; you might answer it, "No"; you might say that you did not remember, but you should directly and simply, answer the question as best you can.

We are not undertaking to put words into your mouth; rather we want to leave you free, but please answer the question directly and simply.

WITNESS: May I perhaps please ask you to repeat the question?

THE PRESIDENT: State the question again, Mr. Prosecutor.

BY MR. SPRECHER:

Q. In any of the fields in which you had jurisdiction in Vermittlungsstelle-7 did you submit copies of reports which you signed and sent out for Vermittlungsstelle-7 to Vorstand members?

A. Yes.

MR. SPRECHER: Thank you.

Q. Do you recall whether or not you submitted reports to the defendant von Knieriem, concerning patent questions in relation to the Wehrmacht for example?

A. Yes.

Q. In connection with the nitrogen syndicate, and nitrogen production problems, do you recall whether you submitted such reports to Krauch before 1940, or, I will say before 1939, before he became a member of the Aufsichtsrat, and was still a member of the Vorstand?

A. That is possible, even probable.

Q. Now under cross-examination you went into the distinction between that division of the OKW Abwehr which is called, Section I, and that which is called Section III. In my question I will restrict myself entirely, witness, to the period before the outbreak of the war, that is, before the 1st of September 1939, so please consider that I am not asking you about anything that happened after the first of September, 1939.

Now do you remember submitting to the military authorities before the outbreak of the war, reports concerning what the conditions of the British nitrogen industry would be, if certain stand-by plants were knocked out of operation in the case of war.

A. I believe I remember that with reference to shadow factories in England, there were dealings going on between the OKW, the nitrogen syndicate and us at a time which was prior to the beginning of the war.

Q. Now I just wanted to know whether or not you considered that as so-called Abwehr 3 or plant protection work, or whether or not you considered that to be another type of Abwehr activity?

A. I think that is a case on the borderline. If anyone is active as an Abwehr representative, for Abwehr III, and if he suddenly receives knowledge of this certain information, and that is second-hand,

and if he further assumes that such information would interest the authorities, it is natural that he would pass on reports.

I assume that we are here concerned with the same matters which are dealt with in the affidavit 10924, under paragraph 2. I should only draw your attention to the fact that the report which I made at the time, so far as I remember, was not made to the agency which was responsible for questions of Abwehr I. I mean responsibility in the sense of our Abwehr regulations, but I made this report to those agencies which dealt with us frequently regarding questions of armament and preparation in the field of nitrogen. That was a Military Economic Staff in the OKW. That would explain this case.

THE PRESIDENT: You have answered the question, Mr. Witness.

BY MR. SPRECHER: Your Honors, I will pass for your information, that the document in question is NI 6696, which is Exhibit 922. It came before your Honors, I believe yesterday.

THE PRESIDENT: Are there any further questions, Mr. Prosecutor?

MR. SPRECHER: No further questions.

THE PRESIDENT: Now counsel for the defendants are entitled to cross-examine this witness as to the testimony produced by the redirect examination by the prosecution.

The Court recognizes Dr. Dix.

DR. DIX, counsel for the defendant Schneider:

Q. I have only two questions to put to you. You have already said, quite correctly, that the reports regarding these English, shadow plants, were not made to Abwehr I, but to the military economical agencies. I assume that such reports were not made by you in your capacity as Abwehr representative, but as a member of the Vermittlungsstelle-77?

A. Yes, that is true.

Q. I have one more question. Previously I had asked you about English shadow factories. With reference to these factories, the objection of the prosecution did refer to this document, - that is

Exhibit 9 22, book 49, page 115. It is headed, and I quote, "English Production Plants for Primary Nitrogen at Mossend near Glasgow, and Merthyr-Tydfil near Cardiff.

Are these the plants to which you referred to before?

A. Yes, I assume so. I no longer remember these names by heart.

THE PRESIDENT: Is there any further cross-examination?

(No response)

Is there any re-direct examination?

MR. SPEECHER: No, Mr. President.

THE PRESIDENT: Then the witness is excused and the Marshal may escort him from the box. The Tribunal will, at this time, rise for its morning recess.

(Tribunal in recess until 1115 hours)

THE MARSHAL: The Tribunal is again in session.

MR. SPRECHER: The prosecution calls as its next witness, Dr. Gerhard Schrader.

THE PRESIDENT: The Marshal will bring in the witness.

MR. SPRECHER: Both of the documents in question are in your Book 36, Your Honors; the first at page 76 and the next at page 79. In the German, at page 101 and page 105.

DR. GERHARD SCHRADER, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q. The witness will remain standing and raise his right hand. He will say "I" and state his name.

A. I, Gerhard Schrader.

Q. And now repeat after me:

I Swear by God, the Almighty and the Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

The witness may be seated.

DIRECT EXAMINATION

BY MR. SPRECHER:

Q. Dr. Schrader, give your full name once more and your present address to the reporters for the record.

A. Dr. Gerhard Schrader, Opladen, Bruckhaeuserstrasse 35.

Q. What city?

A. Opladen, near Cologne.

Q. Excuse me.

THE PRESIDENT: Mr. Prosecutor, would you pardon an interruption, please?

The Tribunal would like to suggest to you that it might expedite the examination of the witness, and especially the cross examination, if while you have the witness on the stand, it is your desire to go without the scope of the affidavit, as you clearly have a right to do

under our previous ruling, if you can do that in your examination in chief it will very largely eliminate the necessity of two cross examinations. Of course, that would not apply to redirect examination proper with reference to matters that might have been developed on the cross examination that you intend to go into, but where you know that you intend to use the witness for inquiries beyond the scope of his affidavit, if you can, either at the beginning of his testimony or after you have asked him about his affidavits, include that, it will save dividing the cross examination into two parts and will save us some time.

MR. SPRECHER: I can state now that I only wish to ask a few questions directly concerning the affidavits and lay a foundation for the cross examination in that connection.

THE PRESIDENT: Very well.

BY DR. SPRECHER:

Q. Dr. Schrader, what was your position before the collapse of Germany in 1945?

A. I was a chemist for I.G. Farben Industry in Elberfeld.

Q. Now, in May of this year, an interrogator of our office, Mr. Miller, conducted an interrogation of you in Leverkusen and that is before us as the second document here, Exhibit 654. You did not see the protocol or the minutes of that interrogation after it had been made, due to the fact that Mr. Miller didn't see you again after this interrogation. Is that right?

A. Yes, that is right.

Q. And you also, by some mistake on our part, were not sworn at the time this interrogation was made. Is that right?

A. Yes, that is right.

Q. This was a surprise to me, Your Honors, and I wanted to bring it out immediately.

Now, in the interrogation itself there are one or two corrections

which you pointed out to Dr. Nelte and which you would now like to make. W
Would you try to refer to them according to the answers or the questions
by number since, in this interrogation, the questions and answers
are numbered?

A. # 17. Answer, I'll read it:

"Up to the present day I have been given no such information. I
do not believe that these experiments were made to any considerable
extent." The word "very" was translated to "any considerable extent",
and I would like to have that stricken out.

Q. So that the sentence would be merely as follows?

"I do not believe that these experiments were made."

Is that right?

A. Yes, that's right.

And I would like to change the next sentence too. I'll read it:

"I spoke to Professor Wirth, the Chief of the Pharmacological
Department of the Army Ordnance Office in May, 1937, and discussed
with him what was to be done."

I changed that to read:

"I discussed with him what was to be done in the chemical field."

Q. Therefore, Your Honors, if you can just add "in the chemical
field" to the end of that answer I think it will properly take care
of that correction.

You have one in the same answer, a little later on.

A. I'll read the next sentence:

"The war came in 1939 and the development of the product was so
far advanced on the production technical side....."

I add the word "production".

"....as well as stable that the Army Ordnance Office could undertake
to produce it on a large scale. Then came a meeting...."

And I make a change here.

"....between the HVA in Berlin...."

Q. That's the Army Ordnance Office?

A. Yes.

"....the Army Ordnance Office in Berlin and some members of the
Vorstand of I.G. Farben, at which Professor Hoyerlein was present."

Those are the changes I have to make.

Q. In other words, this was not a meeting of the Vorstand but a meeting in the Army Ordnance Office or with representatives of the Army Ordnance Office where Vorstand members were present including Professor Hoerlein, is that right?

A. Yes, that is right.

Q. Do you have anything further in the interrogation which needs correction?

A. No.

Q. I believe you did mention that under question 2 there was something in the question itself which was a little misleading in your opinion. Will you bring that out?

A. Yes, Mr. Miller used the expression "poison gas project". In the short interrogation I didn't consider this word critically enough. I would like to have this expression "poison gas project" changed to "examinations" or "tests" but not "project".

Q. Is the word "research" satisfactory? "Research" or "Untersuchung"?

A. Yes, one could use that.

Q. Now later on you gave an affidavit before one of our analysts, Mr. Stevens, in August. You were sworn at that time, is that correct?

A. Yes.

Q. Do you have any additions or corrections to that affidavit which you would like to make, Dr. Schrader?

THE PRESIDENT: Can you tell us where that is found?

MR. SPRECHER: Oh, I beg your pardon. That is just two pages before, Your Honors, in the same book at page 76, and it is page 101 of the German.

A. Under number 12 I have something to change. I will read:

"Shortly after the outbreak of war I heard of a meeting of the Vorstand of the I. G. in which Professor Hoerlein took part."

I have changed that to read:

"I heard of a meeting in the Army Ordnance Office, Berlin, at which members of the Vorstand, including Professor Hoerlein, were present."

Q. Any other changes?

A. I have no other changes.

Q. Did you obtain some new information since the time that you made this document, since the time you made the phrase under paragraph 12 that led you to change your view of what the fact should be there?

A. No. I thought the whole matter over very carefully once more, and I decided that I had made a mistake.

MR. SPRECHER: No further questions.

JUDGE MORRIS: May I make an inquiry of the witness at this point?

Dr. Schrader, you did not swear to the answers contained in Document NI-7671, I understood you to say, is that correct?

THE WITNESS: Yes.

JUDGE MORRIS: You have read the questions and the answers recently, have you?

THE WITNESS: Yes.

JUDGE MORRIS: You know what those answers are?

THE WITNESS: Yes.

JUDGE MORRIS: I now ask you whether or not all of the answers contained in Document NI-7671 are the truth and the whole truth?

THE WITNESS: Yes.

JUDGE MORRIS: That is all.

MR. SPRECHER: Thank you, Your Honor. I certainly made a mistake. I appreciate that.

DR. NELTE: Dr. Nelte, Counsel for the defendant Hoerlein.

CROSS EXAMINATION

BY DR. NELTE:

Q. Dr. Schrader, just now you have stated the fact that your interrogator in Document 654 had asked you, and I quote, "regarding the development of the professor, Hoerlein-Schrader, of poison gas project".

Answering questions of Mr. Sprecher, you said that if the words "poison gas project" are changed into "poison gas research", you would be in full

agreement. You are aware that we are here concerned with the formulation of a question of the Prosecution?

A. Yes.

Q. In other words, we are not concerned with what you yourself testified under oath which after all are your answers. The question "poison gas research" seems to me to be a formulation which is ambiguous and unclear. The word "project" as well as the word "research" means an activity entailing planning, and, therefore, let me first of all ask you: did you at any time during your activity with the I. G. receive the order to undertake chemical experiments with the aim of finding a poison gas?

Would you please wait until the translation has been concluded?

A. No one ever gave me any order to work on poisonous substances.

Q. When did you go to Elberfeld?

A. From 1928 to 1930 I was in Elberfeld.

Q. And where did you go after that?

A. I came to the scientific main laboratory in Leverkusen. I was there from 1930 to 1937.

Q. In what field were you active in Leverkusen?

A. From 1930 to 1934 the field of dyestuffs and dyestuff intermediates.

Q. And from 1934 on?

A. In 1934 my superior transferred me to a new field, the field of substances for protecting plants, insecticides.

Q. What were the reasons for that?

A. Chemists were removed from over-crowded fields for reasons of savings and were transferred to other fields. On orders from my superior, Dr. Bayer, the head of the scientific laboratory, I worked in this field of insecticides.

Q. What does "insecticide" or substances for the protection of plants mean?

A. These are products to kill insects, that is, insecticides, products to kill fungi, or fungicides, and similar things.

Q. This is the field which one calls the field of insecticides?

A. Yes.

Q. What was the economic reason for this concentrated activity in that particular field?

A. We were dependent on other countries for our food supply. We tried to get as much as possible out of the soil of Germany. One primary condition for this was that all harmful insects that might disturb the harvest should be destroyed as far as possible.

Q. What had one used up to that time for purposes of insecticides?

A. In general there was only one substance available. That was nicotine which had to be imported and which cost a great deal of foreign currency.

Q. Can you report on any successes in that field?

A. My idea was to discover a chemical product which could be easily produced which could replace nicotine and which could make us self-supporting in this field.

Q. Then how did it come about that the so-called Tabun substance was discovered?

A. In the course of my research, I worked with fluorine and introduced it into organic compounds. There are quite a number of patents on that subject. In 1935 I introduced fluorine into organic phosphorus compounds. In further work in this direction I systematically replaced other substances with fluorine. This developed more or less effective substances with quantities similar to nicotine.

In the course of this research work in the beginning of 1937 I found the substance which is now called Tabun.

Q. Accordingly is it true that the substance later called Tabun was examined which has nothing to do with a systematic development of poisonous gas?

A. Until that time it was merely an attempt to discover an insecticide.

Q. What happened then?

A. This substance which is called Tabun was tested by the biologists at Leverkusen, and it was pronounced excellent. It was the best thing that had been discovered yet in that field.

Q. You were speaking of biologists. In order to clarify matters, let me ask you what experiments did they carry out?

A. The biologists worked only with insecticides which they put on plants, and they observed the killing of the insects on the plants.

Q. And what did they discover?

A. This substance in very small concentrations killed all insects.

Q. How do you call that characteristic?

A. It had a very strong contact insecticide effect.

Q. Do you call that toxic effect, too?

A. One could not tell up to that time.

Q. And how did you arrive at that discovery?

A. If we wanted to put this substance on the market as an insecticide, we first had to discover whether it was not dangerous for the person using it or for the producer.

Q. And how did you do that?

A. As in all research, we sent the substance to a neutral agency, the hygienic laboratory of Professor Gross in Elberfeld for examination.

Q. Who is Professor Gross?

A. Professor Gross is the head of the trade hygiene laboratory in Wupperthal/Elberfeld.

Q. Was this institute only meant for Elberfeld?

A. This institute took care of all of I. G. Farben.

Q. Then it is true that all substances for all plants of the I.G. were tested there as to their effectiveness?

A. Yes, that is true.

Q. Since when did this institute exist?

A. As far as I know, from 1926 on.

Q. I am interested in the following: from 1930 up to November, 1937, you were in Leverkusen, were you not?

A. Yes.

Q. During that time did you send many substances to Elberfeld for purposes of research?

A. I sent a large number of substances to Professor Gross during that period of time.

Q. Did you send these substances to Professor Hoerlein who was in charge of the Elberfeld plant, or did you send them directly to Professor Gross in his capacity as the head of the hygienic institute?

A. I never sent these substances to Professor Hoerlein, but always to Professor Gross.

Q. Between the years of 1934 and 1945 was there ever any change in this procedure?

A. Not as far as I know.

Q. In order to see clearly how the further development is to be judged, please tell the High Tribunal what does the word "toxic" mean?

A. "Toxic" means a strong effect on the human organism, nothing more.

Q. A strong effect. Does that apply to normal human use?

A. Not at all. There are quite a number of substances which we use daily in medicine which are highly toxic, for example, digitalis preparations, the alkaloids, morphine, etc. which are used daily.

Q. The statement of the toxic nature of any substance, does that mean that this substance is to be used for military purposes?

A. For military purposes one makes substances which are toxic, but that is only one condition among many.

Q. Could you name an example according to which a highly toxic substance would not be considered to be useful for military purposes by the Army Ordnance Offices?

A. In the I. G. at Elberfeld we experienced such a case during the War. A substance was discovered which today has the name "Castrix" and is used to combat rodents. This substance was submitted to the Army Ordnance Office because it is highly toxic. The Army Ordnance Office performed tests with the substance and discovered that for army purposes it was completely useless.

Q. Then it is correct for me to say that the fact of the toxic nature of any substance in itself does not justify you to conclude that this substance is useful as a chemical warfare agent?

A. Yes that is correct.

Q. Now how about the case we have to clarify here? When Professor Gross discovered that the substance had a toxic quality, what did he do?

A. Professor Gross gave an opinion on his test as in all such cases.

Q. And to whom did he send this opinion?

A. First of all the superior of Professor Gross. That was Professor Hoerlein.

Q. And what did Professor Hoerlein do after that?

A. He did what he was obliged to do under the law. He reported this toxic substance to higher authorities.

Q. You said he did what he was obliged to do according to the law. May I ask you whether you know from your own knowledge that there was a law of the 23th of February, 1933, dealing with treason, giving away of military secrets? It was called "treasonous activity" and "treason" to the German nation.

A. All chemists of I. G. at the end of 1933 or the beginning of 1934 were informed about this law repeatedly.

Q. Do you know that a further law dated the 24th of April, 1934, was promulgated according to which the regulations of the Penal Code book, paragraph 88, was modified as follows: It was modified in the sense of a more severe interpretation of the concept "high treason"?

A. I was informed about it repeatedly in the year 1934.

Q. Is it true that in the case of a violation against these regulations the penalty was death, or could be death?

A. Yes, that is true.

Q. In this connection let me quote to you the affidavit of Professor Gross. This is Prosecution Exhibit 656 and can be found in the same document book in which the affidavits of Mr. Schrader are contained. It says here under paragraph 3, and I quote:

"I Professor Gross, know that sometime afterwards" -- we are concerned with the year 1935 -- "Professor Heinrich Hoorlein in the Sparte II received an intermediate post according to which all highly toxic substances were to be reported to him which he, in turn, passed on to me for purposes of research. It was my task to ascertain whether the substances fitted into the scheme of the Army Ordnance Office, in other words, whether they could be used as chemical warfare agents."

Since when did you send Professor Gross the highly toxic substances which came to you?

A I did not have any highly toxic substances until I worked with Tabun. That began in the year 1937.

Q And how about toxic substances?

A From 1930 on Professor Gross obtained quite a number of toxic substances from me.

Q Please tell me whether you at anyone time sent these substances to Professor Hoorlein personally for purposes of examinations?

A I never gave or sent any substances to Professor Hoorlein.

Q You always sent it directly to Professor Gross?

A Yes.

Q Accordingly it cannot be correct as Professor Gross says that the highly toxic substances are to be reported to him in your case, which after all, was very important, was not subject to that procedure?

A I assume that is a mistake on the part of Professor Gross.

Q As I just quoted Professor Gross said, "I had to ascertain whether the substances were the substances which fitted into the scheme, which were demanded by the Army Ordnance Office." In other words, whether they could be used as chemical warfare agents. According to the scheme which was mentioned and of which you know, was it Mr. Gross' task whether the substances were to be used as chemical warfare substances?

A No, in my opinion Professor Gross merely had to determine the degree of poison, nothing else.

Q The degree of toxicity?

A Yes, the degree of toxicity, nothing else.

Q Could he do that? Would he have been in a position to ascertain whether a substance which he recognized to be toxic could actually be used as chemical warfare agents?

A That is quite impossible. Professor Gross is a medical man. As such he can determine the toxic qualities of a substance.

If he recognized that such a substance is highly toxic he can presume that this substance might be of interest to the Army. Only Army officers which perform large scale experiments in the field can determine whether a toxic substance can be used as a chemical warfare agent.

Q Now, Professor Gross, under paragraph 10 of his affidavit, and I must put that to you, Exhibit 656, said the following concerning you, and I quote: "Dr. Schrader, in addition to his insecticides brought substances which he wanted have examined as to whether they were chemical warfare agents in my institute, especially in cases where he considered them to especially in cases where he considered them to be especially effective." Did you, at any time, request Professor Gross orally or in writing to examine substances which you had sent to him as to whether they would be useful as chemical warfare agents?

A No, and that is quite impossible. From what was said before a normal doctor can only determine a degree of toxicity, nothing else. The determination as to whether a substance can be used as a chemical warfare agent or not is up to the Army alone.

Q Do I understand you correctly? Do you mean to say that toxicity is one of these elements which are of importance for the chemical warfare agent but after all it is only one element? At a later date the Army agents themselves the substance can actually be used as a warfare agent. Is that true?

A Toxicity is one condition among many.

Q Very well. In whose, then, was the development when the substance, which later was called Tabun, was placed at the disposal of the Army Ordnance Office by Elberfeld?

A Further developments from that point on were in the hands of the Army Ordnance Office in Berlin.

Q Did the Army Ordnance Office of all the installations which enabled them to continue developing this substance?

A The Army Ordnance had excellent institutes and a great staff

of scientists who could clarify this question.

Q In this case, the case of Tabun, was there a collaboration between Elberfeld and the Army Ordnance Office?

A No, that is out of the question. We were in Elberfeld. We were at the most an information source for technical questions and now and then representatives of the Army Ordnance Office came to consult us concerning details of production, etc.

Q Now if the development of this substance went over to the Army Ordnance Office as from a certain date do you, on your part, continue working in this particular field?

A I had recognized the field as a field of work to find new insecticides.

Q In other words you, on your part, continued to work?

A I continued to work in this field with great interest in order to develop my products.

Q What were the reasons which moved you to leave the laboratory at Leverkusen and go to Elberfeld to Professor Hoerlein.

A There were two reasons in my opinion. I worked in Leverkusen in the big, main scientific laboratory where there were about 24 chemists. Frequently we received enquiries from the Army Ordnance Office in Berlin. We were asked to produce more quantities of Tabun and send them to Berlin. If I wanted to do this I could not do it in a normal laboratory where I myself was not protected from those toxic substances. On the other hand I might have endangered my associates. That was one reason was secrecy. I was obligated to absolute secrecy in regard to this new class of substances by the Army Ordnance Office. If I continued to work in a big laboratory I could not prevent other chemists from learning of this work. Therefore, Professor Hoerlein asked me to come to Elberfeld to continue my experiments in an empty laboratory there.

Q You said in order to continue "my own experiments." During that period did you receive any directives from Professor Hoerlein to develop this substance later called Tabun?

A No, I never received any such instructions from Professor Hoerlein. Professor Hoerlein merely gave me the assignment to work in the field of organic phosphorus compounds thoroughly from the scientific point of view.

Q Could there have been any hope that pharmacologically important products or new insecticides would be found in this field?

A According to the preceding research we had to assume that. I said earlier that highly toxic have a strong effect on the human organism. It was assumed that in the field of organic phosphorus compounds new substances would be found for medicine.

Q Was that actually the case?

A Up to 1945 we did not find any such substances but from Post War literature I know that in America today substances very closely related to Sarin are being used for medical purposes. There have been publications in America as well as England on the subject.

Q Did you find any insecticide, substances to protect plants?

A From 1937 to 1945 I discovered a number of good insecticides. In 1939 I discovered a substance which in 1943 gave the name "Ladan" and put on the market as a substance for nicotine.

This substance was also tested by the Army Ordnance Office in Berlin as to its suitability for military purposes.

The Army was not interested and released it for commercial purposes.

THE PRESIDENT: Dr. Nelte, it is apparent that you are not through with the cross examination and it is the hour for lunch. The Tribunal will rise at this time.

(A recess was taken until 1330 hours.)

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AFTERNOON SESSION

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Bring in the witness, Mr. Marshal.

You may proceed with your cross examination, Dr. Nelte.

CROSS EXAMINATION - Continued

GERHARD SCHRADER - Resumed

BY DR. NELTE (Defense Counsel for defendant Hoerlein):

Q.- At the end of today's examination, you said approximately the following. Professor Hoerlein, when you came to Elberfeld and during the time you worked there, at no time gave you directives which referred to the field of the development of chemical warfare agents. Is that right?

A.- Yes, that is so.

Q.- Furthermore, you said that in the field of the tabun series you continued to work and you discovered, during the course of that work, further means of insecticides. Is that true?

A.- Yes.

Q.- Now, let me put a more specific question to you. Did Professor Hoerlein, at any time, visit you in your laboratory, which was in Elberfeld, in order to inspect your work?

A.- No. Professor Hoerlein came to me only at one time - that happened at the very beginning - in order to look at the laboratory as such. He wanted to see its equipment.

Q.- Did Professor Hoerlein take any interest in any other way in your work?

A.- Professor Hoerlein's interest in this very fascinating work was only very, very slight.

Q.- How do you explain this attitude of Professor Hoerlein's, whom the prosecution charges to have undertaken the poison gas development which later led to the gasses Tabun and Sarin, and furthering it by planning?

A.- Between myself and Professor Hoerlein there were frequent frictions because Professor Hoerlein would not accede to my request to obtain scientific collaborators. I could not possibly cope with this large field myself. Looking back now, I can only imagine that Professor Hoerlein wanted to keep the I.G. out of the development of toxic substances.

Q.- Now, if Professor Hoerlein maintains that he caused your transfer to Elberfeld in order to control these highly toxic substances, the development of which he didn't particularly care of, do you think, looking in retrospect, that this is proper?

A.- Yes.

MR. SPRECHER: Well, I didn't have time to make my objection in time.

THE PRESIDENT: The answer will be considered out for the purposes of your objection.

MR. SPRECHER: I wanted to object to the question as being conjectural, calling for the conclusion of the witness.

DR. NELTE: I ask the Tribunal to make a decision. The Prosecution charged Professor Hoerlein with planning the development of poison gas, through the intermediary of his employees, in particular, Professor Schrader. Professor Hoerlein maintains that the opposite is true. I believe that this witness, who has been called here by the prosecution is most able to decide upon this basic question of the poison gas project. In order for him to do that, he has to answer the question whether Professor Hoerlein not only did not further poison gas development, but even endeavored to withdraw from it in the interest of the I.G.

MR. SPRECHER: Well, of course, the statement that Dr. Nelte has just made is somewhat different than the question he asked the witness.

THE PRESIDENT: The question presently is whether or not this is proper cross examination. It is perhaps on the border line, and may be getting pretty nearly into the field of speculation. We'll overrule the

objection, but the inquiry should not go any farther along that line that indicated by this question.

Do you have the question in mind, witness?

THE WITNESS: Yes.

THE PRESIDENT: And the answer may stay in then.

BY DR. NELTE:

Q.- In this connection, witness, I must put to you a testimony of Professor Cross. This is Prosecution Exhibit 656. It refers to paragraph 8. It says, and I quote:

"From time to time, chemists from the Army or Army Ordnance Office and Dyhernfurth were at the laboratory of Dr. Schrader at Elberfeld and worked there for approximately eight to fourteen days,"

My question: Is it true that the Army or the Army Ordnance Office, from time to time, sent chemists who worked with you for eight to fourteen days?

A.- It is true that gentlemen from the Army Ordnance Office and from the Dyhernfurth Plant now and again came to my laboratory. But it was only chemists from the works of Dyhernfurth who stayed there eight to fourteen days in order to acquaint themselves with the field or organic phosphorus compounds.

Q.- Doctor, I didn't ask you about the employees of Dyhernfurth. These are I.G. employees, after all. I.G. chemists.

A.- I had not quite finished my answer.

Q.- In this connection I had asked you whether chemists from the Army or the Army Ordnance Office came to you for approximately eight to fourteen days?

A.- Chemists from the Army Ordnance Office never stayed at my laboratory for longer than mostly one day. In most cases, they were only concerned with a brief discussion which never took longer than one or two hours. None of these chemists actually worked in my laboratory.

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Do you have the question in mind, witness?

THE WITNESS: Yes.

THE PRESIDENT: And the answer may stay in then.

BY DR. NELTE:

Q.- In this connection, witness, I must put to you a testimony of Professor Gross. This is Prosecution Exhibit 656. It refers to paragraph 8. It says, and I quote:

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Q.- In order to clarify one more question, I should like to put to you paragraph 9 of the affidavit of Professor Gross and I shall quote it:

"I.G. Elberfeld sent small quantities of poison gas to the Army Ordnance Office for experimental purposes. For example, Tabun and Sarin."

In order to avoid my misunderstandings which may arise from the words "poison gas", I ask you what did you send to the Army Ordnance Office?

A.- I sent the Army Ordnance Office only chemically pure substances of the new products which I had discovered. As far as I know, there were about five or six new substances. The expression "poison gas" is a layman's expression and is not customary among scientists.

Q.- Let us clarify this point, Doctor. You sent to the Army Ordnance Office, what you also sent to Professor Gross for experimental purpose?

A.- Yes.

Q.- Is it true that the I.G. whenever a patent was registered, - certain questions were raised in order to ascertain the origin and participation in these patents?

A.- Yes.

Q.- Were these questions raised as follows: (1) who raised the problem; (2) who devised the method; (3) who was active, and participated in the execution?

A.- Yes, that was the case with all patents.

Q.- Now I am asking you with reference to the invention of tabun and sarin. Was Professor Hoerlein participating in the raising of the problem, - devising of the method, or in the execution according to the way it had been ascertained?

A.- From my own knowledge, I can say that Professor Hoerlein had nothing to do with any of these three points in any patent. That can be seen from the naming of the invention. Professor Hoerlein is not mentioned a single time as inventor in any of the many patents.

Q.- Professor Gross in his affidavit, under paragraph 12 stated the following, and I quote: "In the year 1942 I was sent by Professor Heinrich Hoerlein to Dr. Otto Ambros at Ludwigshafen to explain once more to him the Schrader substance tabun and sarin."

At that time Otto Ambros was to render a report on the question of chemical warfare agents to the Fuehrer's headquarters. "By order of Professor Hoerlein I asked him to intercede against the use of chemical warfare agents." Can you confirm that this statement of Professor Gross' is correct?

A.- Professor Gross, after his return from seeing Dr. Ambros, dis-

cussed the matter with me, and explained the matter to me in approximately these same words.

Q.- Let me put the following question to you by way of summation, Dr. Schrader, Did you at any one time receive an order from Professor Hoerlein, or from any other person in a high position in the I.G. to carry on any research regarding poison gas or chemical warfare agents?

MR. SPRECHER: Your Honor, I do not know that we can prove any more by getting these repetitions, and it seems to me that the record is being burdened. I object to it as being cumulative.

THE PRESIDENT: Well if it is cumulative, the least harm that can be done is to have it in the record twice. The objection will be overruled.

BY DR. NELTE:

Q.- You heard the question?

A.- Yes.

Q.- Have you replied?

A.- I never recieved any order from anyone in the I.G. to develop these things/

Q.- Dr. Schrader, did you find this substance later called Sarin and Tabun necessary in the field of insecticides?

A.- Yes.

Q.- Dr. Schrader, when this substance was discovered, on the basis of legal regulations, it had to be reported to the Army Ordnance Office?

A.- Yes.

Q.- My question: With reference to the further development of the substance into Tabun and Sarin, was this a matter which was in the hands of the Army Ordnance Office?

A.- I can answer that question with yes.

Q.- Did Professor Hoerlein show any interest, and did he promote the development of tabun and sarin?

A.- No, as I said before.

Q.- Can it be said that he actually tried to limit this development by neither placing at its disposal technical nor scientific assistance?

A.- I said before that there was tension between us for that reason.

Q.- Which at that time you did not understand?

A.- No.

Q.- But you do understand it to day?

A.- I did not know the reason at the time.

Q.- Within the framework of this field of work at Elberfeld and Leverkusen, I am asking you the following: Were there at any time, experiments on human beings carried out?

A.- So far as I know, never.

Q.- Did you ever get knowledge that in the course of the experiments in Spandau, experiments on human beings were carried out?

A.- I never learned anything about that.

Q.- When the danger arose that tabun was dangerous in laboratory action, did Professor Hoerlein see to it that such chemical warfare should not be used?

A.- As was said earlier, Professor Hoerlein sent Professor Gross to see Dr. Ambros to prevent these substances being used.

DR. NELTE: Thank you very much, no further questions, Mr. President.

THE PRESIDENT: Does Counsel for the defense desire to further cross-examine this witness? There being no indication of any desire to pursue the cross-examination, the Tribunal asks, does the Prosecution desire any re-direct examination?

REDIRECT EXAMINATION

BY MR. SPRECHER:

Q.- What was the objective of I.G. if you know the objective, in attempting to patent the original substance you discovered, which was

called tabun?

A.- The Tabun patent was handed in before the Army Ordnance office ever saw the substance. We still hoped at the time that we might be able to use this substance, or some derivative, for insecticide, and we wanted to secure this field.

Q.- When did it become clear to you, if it did become clear to you, that the original substance, Tabun, which you discovered, could not be used as an insecticide because of its dangers to people or animals who might come into contact therewith?

A.- After the result of Professor Gross' test.

Q.- In 1937?

A.- That was in 1937.

Q.- Did your continued work, as you stated, with respect to insecticide, go into other chemicals than Tabun and the related substances?

A.- That cannot be described in a few words. The field which was a new area in chemistry, was worked through scientifically by me.

Q.- Did you spend most of your time in that field after 1937 or not?

A.- I spent almost all of my time in the search in the field of these new compounds?

Q.- That were related to tabun?

A.- Yes, derivatives of the tabun substances, were so slightly toxic that they were interesting for new insecticides.

Q.- Were the insecticides which you mentioned finding in about 1943, I believe, were they precise derivatives of tabun, or related chemicals?

A.- In 1943, we put ladan on the market. Chemically, ladan is closely related to tabun.

Q.- Are there any other examples?

A.- There were other examples but we were not allowed to put these substances on the market, because the Army Ordnance Office would not release them for the commercial field.

Q.- How do you translate the word, "toxic" into English; if you know?

A.- I could not say.

Q.- Do you know that I.G. had a chemical dictionary?

A.- No, I don't know that.

Q.- Now tabun —

DR. GIERLICH, counsel for Schmitz: Mr. President, my attention has just been called to the fact that obviously a mistake occurred in the translation, which may perhaps influence the understanding of this entire exhibit. In the German language, "The derivative had such a slight toxic content that they were always inspired to new experiments" the translation was that they were "so toxic". The translation said that they were "so toxic" which actually means the opposite.

MR. SPRECHER: Doctor, there seems to be some objection from the translator but I think the record will show after your Honors check it.

THE PRESIDENT: Very well, we will depend upon counsel to either confirm the translation or leave it stand as it came out, as the circumstances seem so justify. We will give no further attention to it unless we have some notice of a controversy among you gentlemen.

BY MR. SORRECHLER:

Q How much time did you spend with respect to the question of reducing the inflammability of tabun? Naturally, I am not asking for an exact percentage of your time.

A I worked on it perhaps 3 months.

Q Does that have to do with the question of insecticide, or was that done on the orders of the Army Ordnance office?

A I must answer that it was concerned with my discovery of new insecticides on the one hand, but on the other that tabun had the bad quality, so I worked of burning in both fields.

Q I am sorry, I did not quite understand whether or not your answer was completely responsible, so I will rephrase my question, so that I am certain we understand one another. My question was directed solely to whether or not you received an order from the Army Ordnance office to work concerning the question of the reduction of the inflammability of the tabun?

A I never received such an assignment from the Army Ordnance office.

Q Did they, on some of these visits, question you concerning your development in that field?

A No.

Q Now you mentioned that some questions of the production of tabun and sarin were raised from time to time: were these raised with you?

A Would you mind repeating the question?

Q Certainly not. You mentioned that from time to time some questions arose with respect to the production of these substances, I mean not for mere experimental use, but on a large scale, for instance you were called to Berlin in that connection, were you not?

A I still do not quite understand the question. At the very beginning, when the poisonous action of tabun was discovered by Professor Gross, I was called to Berlin in order to demonstrate to the Army Ordnance Office how this substance was produced.

Q Did you have to indicate something of the nature of the apparatus which would be required and how much capital would be required and whether or not it could be produced in large quantity or not?

A No. This was at the very beginning of a new discovery. My duty was to show the way in the laboratory, how this compound could be obtained.

Q Now after some problems arise there which were mentioned to you?

A I was called in at Dyhernfurth only when there was a scientific question. I was never consulted on production matters.

Q When a plant has engaged in producing a substance, how can you distinguish, - and I am only anxious to know how can you distinguish, - between the scientific problem and the production problem?

A The scientist has insight into the various methods from the point of view of his laboratory; the person who builds the factory, and who is supposed to manufacture, sees things with other eyes from the technical viewpoint.

MR. SPRECHER: No further questions.

THE PRESIDENT: Is there any further cross-examination of the witness desired? None being indicated, the witness is excused from the stand, and the Marshal may escort him away.

The prosecution may call its next witness.

MR. SPRECHER: Before I call a witness in, might I indicate the place in the book, your Honor?

THE PRESIDENT: Yes, surely.

MR. SPRECHER: The witness will be Paul Koerner, and the document unfortunately, are found in four different books. The first is in Book 20 of the English, page 14, and book 19 of the German, page 87.

THE COURT: Exhibit Number please?

MR. SPRECHER: Exhibit 422.

The next exhibit 468, which is in book 21 of the English, page 55, book 20, German page 82.

The next exhibit is Exhibit 682, which is in book 22, at page 45, in the German at page 45 also.

And the last exhibit is Exhibit 402, which is in document Book 19 of the English, page 73 and document book 24 of the German, page 103.

THE PRESIDENT: Are you ready to have the witness called?

MR. SPRECHER: Yes, Your Honor.

THE PRESIDENT: The Marshal will bring in the witness.

PAUL KOERNER: a witness took the stand and testified as follows:

BY THE PRESIDENT:

Q What is your name?

A Paul Koerner.

Q Will you repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath)

THE PRESIDENT: You may be seated.

THE PRESIDENT: The witness is with the Prosecution.

DIRECT EXAMINATION

OF PAUL KOERNER

BY MR. SPRECHER:

Q Will you state again your full name for the record?

A Paul Koerner.

Q And since the German collapse you have been in confinement by the American authorities; is that correct?

A Yes, that is correct.

Q And what was your position before the German collapse, Mr. Koerner?

A I was under-secretary of state of the Prussian Ministry, and under-secretary of state in the 4-year plan.

Q And from shortly after the time the Nazi's came into power in January of 1933, you constantly held a position under Hermann Goerring; is that correct?

A Yes, that is correct.

Q Now from time to time have American investigators in the last few months questioned you concerning developments during the years of the Third Reich?

A Yes, that's right.

Q Mr. Koerner have you with you copies of four affidavits which you discussed with Mr. Charnatz some time in the last week?

A Yes.

Q Do you have any additions or corrections to the statements you made in any of these four affidavits which you desire to make at the present time?

A Yes. Regarding document NI-10386 --

THE PRESIDENT: Pardon me, what is the exhibit number?

MR. SPEICHER: That is 302.

THE WITNESS: Yes, 0302. Page 2 of the German mimeographed text of that document.

BY MR. SPEICHER:

Q Continue.

A Paragraph 2, lines 8, I told Krauch that I was not in agreement with Loeb's planning. It says there by error that Krauch reported to me.

Q Would you go a little further, please, Mr. Witness, to indicate to whom Krauch did report?

A Yes. I thereupon had Krauch come to me and at this discussion which took place about the end of 1937, I told Krauch that I disagreed

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with the whole style of the Leeb planning. Then it goes on that he made
constructive suggestions, and so on.

MR. SPEECHER: Excuse me, Mr. Witness. Did your Honors find the
place.

THE PRESIDENT: Yes, we have it.

Q. Did you indicate to Krauch that you disagreed with the planning of Loeb or did Krauch indicate to you at that time that he disagreed with the planning of Loeb?

A. I indicated to Krauch.

Q. I just wanted to make it very clear so the record would stand clear.

A. I see.

Q. Anything further, Mr. witness?

A. Yes, one more addition which I have to make with reference to affidavit NI 4193 which is Exhibit 468. It refers to a meeting of the 14th of October 1938. May I begin? The Prosecution submitted a record to me regarding the meeting at the Reich Ministry of Aviation which took place on the 14th of October 1938.

Q. May I interrupt, Mr. witness. For the purpose of clarity I would like to indicate that that is what we call PS 1301 which has already been introduced here your Honors, as Exhibit 410. Excuse me, Mr. witness.

A. Very well. This is Exhibit 468.

Q. Yes, that is your exhibit, Mr. witness, your affidavit.

But, the minutes which you referred to have this other exhibit number and I merely wanted the Tribunal to know what you had been shown by representatives of the Prosecution. Please continue.

A. Yes. This record does not originate from my office and therefore I cannot confirm its authenticity. However, after reading that document I do remember such a meeting having taken place.

Q. Do you have any other additions or recollections to add?

A. No, I have no further additions or corrections to make. May I just draw your attention to the fact that the affidavits contain some incompleteness since they only constitute excerpts from interrogations which extended through periods of weeks and sometimes months.

Q. That's quite customary with many of our affidavits here and the Tribunal and defense counsel I'm certain are quite familiar with the fact.

A. I see. Naturally I am quite prepared to supplement these incompletions by way of questions you put to me.

Q. If you have the opportunity. No further questions.

THE PRESIDENT: Do you desire to ask the witness about the other two affidavits specifically or do we understand by his answer there were no additional corrections applying to the other two.

BY MR. SPRECHER:

Q. That is my understanding but perhaps I might make it clear. Mr. Koerner did you indicate that you had no further corrections to the other two affidavits as well?

A. Yes.

THE PRESIDENT: Very well. The defense may cross examine the witness.

BY DR. BOETTCHER: (For the defendant Dr. Krauch):

Q. Concerning Affidavit Exhibit 682, Volume 32 in the English -

JUDGE MORRIS: Pardon me, Dr. Boettcher, isn't that volume 22 instead of 32. I understood you to say 32.

DR. BOETTCHER: Yes, Book 22. No, 32; the Prosecutor had said 22. I was right.

BY MR. BOETTCHER:

Q. Witness, very briefly in a very few questions I should like to discuss with you, the purpose and aim of the four year plan. First question: Is it correct if I define the purpose and meaning of the four year plan as follows: The origin of the four year plan was the necessity of controlling foreign currency which existed from 1931 on and the resulting difficulty for Germany in obtaining raw materials from abroad, including food.

A. Yes, I confirm that.

Q. Do you know that in the fall of 1935 this situation became especially difficult, when differences of opinion arose between Darro, that is, your Honors, the Reich Food Minister at that time, and Schacht, who was President of the Reichbank, concerning the releasing of foreign

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currency to pay for foreign food imports?

A. Yes, true.

Q. Is it true, that Goering was authorized to settle this difference of opinion?

A. Yes.

Q. Do you know what Goering's decision was?

A. Goering received an order from Hitler to settle the controversy between these two gentlemen and at the same time to take up measures which would secure German food for the coming year.

Q. Is it true that on the basis of this first assignment in the economic field Goering was then given further assignments in the economic and economic-political field?

A. Yes, during the latter months and in particular in the beginning of the first quarter of the year 1936 received the order to work out proposals for Hitler how the German currency economy could be developed.

Q. In the course of this duty was the four year plan developed and proclaimed?

A. After the preliminary work on these proposals was concluded Goering reported and submitted them to Hitler and upon that Hitler pronounced it on the occasion of the Reich Party Rally of 1936 the four year plan. A final confirmation took place on the 18th of October 1936.

Q. Was this four year plan in particular to obviate the danger of increasing unemployment?

A. That was the motivating factor which actually lead to the four year plan.

Q. Was a secondary field of the four year plan, the production of synthetic gas and synthetic rubber?

A. These were fields which belonged to the program of the four year plan.

Q. Were these products of a special significance for Peace time needs, -- just a moment please, -- since the program of Hitler's Cabinet

provided for a great expansion of civilian motoring through the construction of highways and Volkswagen.

A. Yes.

BY THE PRESIDENT:

Q. Pardon me a moment. Witness, permit me to remind you of the difficulties we have because of translation and if you will pause momentarily after the question is asked so that the translators catch up it will facilitate the trial. Thank you very much, go ahead.

A. Yes, your Honor.

BY DR. BOETTCHER:

Q. Is it true that the first bottleneck in connection with fuel arose from the increasing civilian motor traffic as early as 1934-35?

A. Yes, that's true.

Q. Did all these facts, in your opinion, give occasion to the person entrusted to carry out the four year plan to also go as far as re-armament to obtain a certain balance of power in foreign policy but not to think of the planning of the war of aggression.

A. As I have already stated before, the four year plan was created in order to strengthen German economy and make it ready to withstand crises. There was the rebuilding of the German Wehrmacht and there were other important tasks which made considerable demands to general economy, demands which had to be solved. Since the German raw material basis could not be considered to be sufficient for such a extensive economy, Germany was forced to take up measures which would secure the import of necessary raw materials. Since the German export beyond a certain figure could not be increased resort had to be taken to possibilities which enabled the German economy to produce basic substances, raw materials, from German sources.

One of the most important tasks of the Four Year Plan, beyond the increase of the export to the very possible extent, was the increase of agricultural production and then the increase of production from German raw material sources. Since the German economy basically had only coal as a raw material at its disposal, it became necessary to extend the chemical industry and to employ it in the task of gaining the necessary basic products.

Q. Witness, you have not answered my final question. That is, whether these facts which you have just confirmed occasioned the person authorized to carry out the Four Year Plan not to think of planning for wars of aggression?

MR. SPRECHER: I have no objection. I think I could make the objection on about three or four grounds. I'll make it on the simple ground that I think it's far beyond the scope of the affidavit.

THE PRESIDENT: That's a bit difficult for the Tribunal to pass upon, but cursory examination of the affidavit to which our attention has just been directed would indicate that this witness went pretty fully into the purposes and velocity and plan of the so-called Four Year Plan.

Just a moment.

The Tribunal is of the opinion that the inquiry is well within the limits of cross examination as it applies to the affidavit that we now have before us.

MR. SPRECHER: Your Honor, then calling upon this witness to make his conclusions concerning what other people working in the Four Year Plan, from the point of industry, thought about whether or not these things were being done or not, it seems to us is calling for his conclusions in a way which wasn't even entered upon in any way, shape or form in the affidavit.

THE PRESIDENT: Well, a lot of the affidavit is nothing more than conclusions, it seems to me.

MR. SPRECHER: I shouldn't want to place that question before

you. I hadn't intended to, I should say. I mean, conclusions along that line - with respect to the conclusion of aggressive war.

There's still another question that I think we get into. Some of these questions, I think, with respect to the purposes of the Four Year Plan have the effect of colliding with the decision of the International Military Tribunal on this very, very point where an express finding was made concerning the purposes of the Four Year Plan, and we do have here a few rather interesting documents in case that question has to be gone into again, but I am a little in doubt as to whether this inquiry should extend that far, particularly since the question of intent with respect to the question of aggressive war was not gone into in the affidavit by the witness Koerner.

THE PRESIDENT: The objection is overruled.

DR. BOETTCHER: May I repeat the question briefly, Mr. President? May I repeat the question, Mr. President?

THE PRESIDENT: Yes.

BY DR. BOETTCHER:

Q. Witness, you indicated some facts in connection with the Four Year Plan which were decisive for Germany's foreign and domestic trade. I then asked you whether all these facts would give occasion to the person authorized to execute the Four Year Plan, in your opinion, to think of preparations for aggressive war? You can answer this question with "yes" or "no".

A. I can only answer this question briefly with the word never.

Q. The next affidavit, NI 10386, Exhibit 402, English Document Book 19, Page 73, and in Document Book 24, Page 103 of the German edition. English book 19, page 73. In this statement, witness, you tell of various discussions between Goering, Colonel Loeb and Krauch at which you were present. My question is this: At these meetings were facts discussed which had any connection with an intention to wage wars of aggression?

A. This question wasn't even mentioned at a single time during

these discussions, nor was it ever even hinted at.

Q. Thank you.

Now, my last question. Document NI 4193, Exhibit 468, English Document Book 20, page 55. German Document Book 20, page 82. 21, 21, excuse me. Book 21. The books are mixed up. Book 21, page 55. You speak of the discussions at the Aviation Ministry at the end of the paragraph numbered 1, which deals with the solution of the Jewish question in Austria. Now, my question is this: In dealing with the Jewish question, was not Goering opposed to other authorities in the Party, was he not very liberal? Did he not express his general dissatisfaction to the defendant Krauch among others? His dissatisfaction with the Party's treating of the Jewish question?

MR. SPRACHER: I would like to ask if Dr. Boettcher could make it clear to me - I don't know whether to object or not. Does your question refer to what was said in this meeting, if I may ask, Your Honor, or does it refer to some other source of information the witness may have regarding Goering's attitude and the attitude of Goering as against the Party?

DR. BOETTCHER: Following the instructions of the Tribunal, I have considered how I could put this question. In my opinion, the argumentation is this. If a specific question is brought up about the Jewish question in Austria, I must be able to ask what the treatment or rather, the attitude of Goering to the Jewish question was, generally?

THE PRESIDENT: That is correct, and the prosecution is likewise correct when it suggests that the attitude of Goering that that might be the subject of this cross examination should be the attitude evidenced or expressed at the meeting of October 14, 1938, and not his overall general attitude or expressions that may have occurred at some different time or place. If counsel for the defense has in mind the inquiring as to what the witness knows about the meeting referred to in the affidavit, he has full liberty to do so.

Q. Witness may I ask you to answer this question within the
limitation as you have just heard them from the Tribunal.

A. With regard to this question I can only say that at the time before signing this document I pointed out to the representative of the Prosecution that I naturally no longer remember exactly the points which were brought up by Goering during that meeting. If they are mentioned in the document which was submitted to me, I can only take notice of the facts as they appear from the document but cannot define my own position towards them. Therefore, I have made the addition to the document this morning in order to be able to say today clearly that before signing this document I pointed out to the representative of the Prosecution that on the day of signing the document, I can no longer remember every detail in view of the many meetings which have taken place at Goering's office.

DR. BOETCHER: Thank you. That concludes my cross examination.

DR. von KELLER: Dr. von Keller for the defendant von Schnitzler.

CROSS EXAMINATION

BY DR. von KELLER:

Q. Witness, in your affidavit NI-5955, Exhibit 422, English Document Book XX, page 14, in the German book XIX, page 87, you deal with a speech of Goering on the 17th of December, 1936. I should like to ask you whether this speech was a secret conference?

A. No. We are not concerned with a conference at all. This is an invitation by Goering and Hitler to the leading men of economy and industry. This was done because of the Four Year Plan which was promulgated a few weeks ago.

Q. Thank you. I don't want to go into detail concerning this speech, but I would like to ask you, witness, were the gentlemen present obligated to secrecy?

A. Certainly not, as far as I remember.

Q. Either in writing or orally?

A. I don't know anything about that.

Q. Do you know of any security measures not of a technical nature but of such a nature as to prevent the dissemination of the

contents of the speech?

A. I know nothing of that either.

Q. In addition to influencing the industrialists, was it not rather the purpose of the speech to exert a certain propaganda effect?

A. I believe that the propangandistic effect was the most important point which occasioned this meeting. Hitler wanted to have economy and industry be given a short survey about the tasks of the Four Year Plan and wanted to request them through a short speech to place themselves as a body behind Goering in order to complete this great task in the interest of German economy and to bring it to a successful solution.

Q. Then it would be wrong, witness, to say that the speeches had a strictly confidential character?

A. I believe I must say that.

Q. Do you perhaps remember, witness, that on the next day or the second day afterwards the foreign press gave reports on these speeches, for example, the Times, and many papers even published quotations?

A. I don't remember these details today, but it is possible.

Q. Finally I should like to ask you, witness, from either of these two speeches could one conclude in any way that Hitler intended to wage a war of aggression?

A. Out of the question.

DR. von KELLER: Thank you very much. I have no further questions.

DR. FLAECHEISNER: Flaechsner for Buete-fisch.

CROSS EXAMINATION

BY DR. FLAECHEISNER:

Q. Mr. Koerner, your affidavit NI-9656, English Document Book XXXII, page 45, the same page in the German document book, was submitted by the Prosecution, Exhibit 682. I would be grateful to you if you could clarify a few points which are touched upon there. It says, "I.G. and its licensees had an outstanding part in the expansion

of the raw material plan of the Four Year Plan for 1937."

I should like to find out what evidence you have which brought you to this conclusion that the I.G. had such an outstanding share. First of all, you say "licensed firms". What do you mean by that?

A. Under "licensed firms" I understand those firms who had applied to I.G. to convert their process into licenses.

Q. Do you mean to say that these licensed firms were economically dependent on I.G. Farben because of this license?

A. I would never say that because that is entirely impossible.

Q. Do you mean to say that these licensed firms were requested by I.G. to build plants exclusively according to the I.G. process?

A. Certainly not.

Q. You say in the affidavit that I.G. and the licensed firms had an outstanding share in the expansion projects of the raw material plan for 1937. You refer explicitly only to the situation in 1937, and you give concrete conditions as far as the coal capacity for 1937 and the building project at Salzgitter, but I will come back to that later. But the Four Year Plan, as its name indicates, is something which was spread over several years. You will no doubt agree with me on that with regards to the participation of one firm in the Four Year Plan that one cannot pick out any definite day or year, but only a longer period of time.

A. I am in absolute agreement with you. The interrogation as a result of which this affidavit was drawn up by the representative of the Prosecution referred merely to the year of 1937, and all questions which were put to me by this representative of the Prosecution referred only to information which referred to the raw material plan for the year 1937. Before signing this affidavit I have pointed out already to the representative of the Prosecution that such an excerpt from an interrogation which lasted for days may perhaps give a wrong picture, but it was told to me, and since we are only concerned with the year of 1937, no misunderstandings could

occur. For those reasons I was prepared to sign this affidavit.

Q. Thank you for explaining that to us, witness, how this affidavit came to be made. That helps us a great deal in the rest of the examination. If one looks at your affidavit superficially without knowledge of the background, one could conclude that the expansion projects of the Four Year Plan were primarily in fields in which the I.G. had a leading or predominate part. Therefore, I should like to ask you whether or not also many other fields were included in the Four Year Plan aside from the matter of coal and iron which you mentioned earlier, ore mining, textile industry, construction, agriculture, etc.

A. I believe that, with that short excerpt about the work of the Four Year Plan I have already given exhaustive information on that subject. I don't want to be repetitious here. That you say is correct. The share of the chemistry sector in the Four Year Plan was considerable but certainly not decisive. To the same extent, perhaps even to a greater extent, the agricultural plan played a part in that economy and that also applies to all huge tasks which are connected with ores, coals, etc.

Q. May I give you a few more examples, aluminum production?

A. Yes.

Q. Artificial silk?

A. Yes.

Q. Artificial fibers?

A. Certainly.

Q. May I also ask is it true that all similar production sites no matter what their nature, also those which were not specifically for I.G. production, were expanded with full approval of all concerned?

A. Certainly. There was no field which was not touched. The fields, of course, differed as to their size and importance.

Q. In your affidavit you mention the reluctant attitude of the iron producing industry. Just a minute, I haven't finished my question.

I wanted to ask you in Germany coal and iron producing industry were very closely interrelated by the way of concerns. Did you know that, for example, the entire coal and iron industry of the Ruhr in the field of expansion of production sites of mineral oil made a considerable contribution to the Four Year Plan?

A. Certainly.

Q. I am thinking of Scholten, Geltenberg, etc., etc.

A. Certainly.

Q. You said, "Certainly", didn't you? Of the Mitteldeutsche Braunkohle one may say the same thing?

A. Yes, I believe so.

Q. How about the expansion of water power for the expansion of power in the Four Year Plan?

A. Yes, a considerable building program was carried out.

Q. And in the field of food you have already spoken about the production?

A. Yes. I should like to point out expressly that the mentioning of the iron industries in connection with my affidavit only referred to the Salzgitter project and to nothing else. The reasons which moved the iron producing industry at that time not to participate in the Salzgitter project were of a purely egocentric nature.

Q. I should like to ask you were these reasons not of a purely technical economic nature because up to that time in Germany ores of such low iron content and of such a high pyrite content could not be used for smelting?

A. We had a number of processes in Germany which had already been tested but which gave no sufficient guarantee to the iron producing industry to mine the Salzgitter ore. I think I may say that these were not the sole reasons which prevented the iron industry from conceding to Goering's proposal to extend Salzgitter. There were other reasons which essentially moved them. The iron producing industry did not like to extend the basic production, they preferred

to extend the processing sector.

THE PRESIDENT: Counsel, please, it is now time for our recess.

THE MARSHAL: The Court will recess for fifteen minutes.

(A recess was taken).

THE MARSHAL: The Tribunal is again in session.

DR. FLAECHEMER (Counsel for Defendant Buettelisch): May I continue, Mr. President?

BY DR. FLAECHEMER:

Q. Witness, only one more question. Some of the main fields of the Four Year Plan have already been discussed cursorily. If one surveys these fields, is it true then to say that the participation of I.G. Farben in the Four Year Plan was only as great as it would normally arise from its proportion and size as compared to other German industry?

A. I can confirm that.

Q. Then we no doubt agree that the expression I. G. had an outstanding share is misleading?

A. Yes. As I said before, it only refers to the year 1937. This was the first year of the Four Year Plan. All the other enterprises came into the foreground, and the chemistry program took up its ranks among the other fields.

Q. Thank you; no further questions.

THE PRESIDENT: Any further cross-examination?

Any re-direct examination?

RE-DIRECT EXAMINATION

BY MR. SPRECHER:

Q. Mr. Witness, directly in connection with the last question which in turn related to some prior questions, I have a rather simple question to ask you. Did the basic raw material plan of 1937 -- I withdraw that. Did the basic raw material plan of 1937 alter substantially after the year 1937, with respect to basic raw materials?

A. In the year 1937 the chemistry sector of the Four Year Plan came into predominant foreground, as compared to the other sectors. The sector, for instance, concerning the extension of Salzgitter only started its work in the year 1937 and increased as time went on until the year 1938 to 1939 it had a considerable share in the Four Year Plan.

In the same way, all other expansions, which I cannot list in detail at the moment, had a similar character.

Q. Your example has been directed to a Reich agency. I believe you were chairman of the Vorstand, is that correct, of the Hermann Goering Works?

A. Yes, I was the chairman of the Aufsichtsrat of the Reichswerke.

Q. But with respect to basic raw material during the year 1937, so far as raw materials are concerned, what other basic materials were affected during that year, apart from the chemical sphere?

A. The expansion of the aluminum industry, the expansion of all the ore projects in Germany, in addition to the Salzgitter project, the expansion of artificial fiber industry, to a very considerable extent and certainly a number of other branches of industry which I cannot enumerate in detail now.

Q. Well, you recall the Bibel, the so-called Bibel, do you not?

A. Yes.

Q. Now, that was first set down in the year 1937, is that correct?

A. Yes, since the Four Year Plan started at the end of 1936 the Bibel was drawn up for the first time in the year 1937.

Q. Do you remember approximately what the share of I.G. was -- and I say only approximately -- in the total investment planned with respect to the whole export problem, as is shown in the Bibel?

A. Naturally I do not remember these figures at the moment. In view of the many figures which came to me during these years, I could not remember it.

Q. Now, witness, in cross-examination you mentioned the speeches that Hitler and Goering made to the hundred, approximately one hundred industrialists on the 17th of December 1936. Does that speech stand out fairly well in your mind? Do you recall what actually was said in that speech?

A. Naturally I don't remember details today. I only know, as I stated before, that this was a request to the economy and industry to promote and assist the task of the Four Year Plan with all the powers available.

Q. Well, do you remember whether or not an explanation was made by Hitler and Goering concerning the purposes of the Four Year Plan?

A. I cannot tell you about the reasons which were enumerated at the time now, but I know that the same guidance was promulgated at the time which I have stated before.

Q. Tell us whether or not the eventuality of war was mentioned as you recall it.

A. Certainly not. At that time no one believed in a war -- unless Germany of course had been attacked -- but nobody of us has thought of a war.

Q. Well, do you remember whether or not the speech of Goering was not mentioned in the press, whereas the speech of Hitler's was? Do you remember whether that was true or not?

A. After so much time has elapsed, I cannot tell you.

Q. Well, I thought perhaps if Goering's speech was not entered in the press there might have been some reason, therefore, which would have brought the matter back to your memory.

A. It is quite impossible to remember such details after twelve years has elapsed. If you would ask me today whether excerpts from these speeches of Goering and Hitler had appeared in newspapers, I would say yes, certainly.

Q. Do you recall whether or not Goering made a survey of political events in connection with the explanation of the Four Year Plan which he made to the industrialists?

A. No, I do not remember anything about that.

Q. Do I understand your position with respect to that that you do not say he did not -- but that you don't have any memory of the fact?

A. I can only now tell you that I don't remember whether Goering actually did so or not; I cannot say.

Q. Do you recall whether or not Goering said something along the following line -- and naturally I am not asking you to remember the exact words: "The daily bread must be absolutely guaranteed. It is more important than guns and grenades." Do you remember that or not?

A. It is possible that Goering made a similar utterance; I don't remember it.

Q Do you remember how Goering closed the speech?
Perhaps the peroration made some impact on your mind. Do
you remember that?

A Do you intend me to answer that question? I did not
quite understand it in a way that it could be answered.

Q Well, I merely wondered if there was anything about
the end of that speech, the last few words, which impressed
themselves on your mind in any way whatsoever.

A That is quite impossible. During this decade I heard
so many speeches from Goering that I certainly couldn't
remember the end of one specific speech today.

Q Well, let me try to refresh your recollection, witness.

A Very well.

Q Mr. Charnatz, will you hand the witness a copy of
the minutes, which will show that? (Document handed to witness.)

MR. SPRECHER: Your Honors, that is Exhibit 421, already
in evidence, NI-Document No. 051.

BY MR. SPRECHER:

Q Will you look at the last paragraph of the minutes,
witness?

A Yes.

Q Have you finished reading the paragraph?

A Yes, I am finished.

Q Now, may I ask you if your testimony would still be
the same on cross-examination if you were again asked the
question as to whether or not there was anything in this
speech which had to do with preparations for war?

A I hardly believe that in the speech utterances were
made in the form which is mentioned in the last sentence of
this document. This document which was submitted to me does
not originate from my office; I don't know who its author was;

I don't know whether its contents are authentic and correct, and I must very much doubt it.

Q I will show you some other documents in a minute. I have nothing further on that one.

A Very well.

MR. SPRECHER: Your Honors, Mr. Charmatz pointed out to me that I probably left the situation a little unclear in view of the fact that you do not have the document with you. The closing paragraph is the following: "In closing, Goering demanded unrestricted utilization of all power in the whole economic field. All selfish interests must be put aside. Our whole nation is at stake. We live in a time when the final dispute is in sight. We are already on the threshold of mobilization and are at war; only the guns are not yet being fired."

BY MR. SPRECHER:

Q You don't remember that those words were used?

A No, certainly not.

THE PRESIDENT: Go ahead.

BY MR. SPRECHER:

Q Were you ever informed, witness, as to how Hitler described to Goering the purpose of the Four Year Plan?

A Yes, I know of the directives which Hitler issued to Goering before the Four Year Plan was promulgated.

Q Do you know of the memorandum by Hitler concerning the tasks of the Four Year Plan?

THE PRESIDENT: Mr. Prosecutor, would you advise the Tribunal as to the theory upon which you think this is a proper examination?

MR. SPRECHER: Yes, Your Honors. The witness was asked concerning the purposes of the Four Year Plan on

cross-examination. Certainly he had gone into some of those purposes in his affidavit -- or what we might call, on direct examination -- and I feel it quite proper, since he gave certain statements during cross examination concerning that matter, to attempt to refresh his recollection as to what the real purposes of the Four Year Plan were, as expressed in a way which he knows or should recall, in our opinion, and in a way which was expressed publicly as far as the industrialists were concerned, and, in a similar fashion, the document I was about to go into.

THE PRESIDENT: Well, that document is in evidence and is before the Tribunal, and whether he knows about it or not is not going to change the fact or the situation so far as that proof is concerned. Personally, I am a little lost to see where this is in the category of re-direct examination.

MR. SPRECHER: Well, Your Honor, as soon as the witness on cross-examination started to go into the question of knowledge of intent, it seems to me that the Prosecution should not be in the position of letting the record officially lie as it now stands without trying to refresh this witness's recollection about some of the real documents of the day.

THE PRESIDENT: Go ahead; we will see where we get.

BY MR. SPRECHER:

Q My question was whether or not you had access to Adolf Hitler's memorandum on the task of the Four Year Plan which was given by Hitler to Goering, a memorandum in which he discusses the intent and objectives of the Four Year Plan in some detail?

A I remember that Goering before the beginning,

that is, before the pronouncement of the Four Year Plan, showed me a memorandum of Hitler's which I read. I read this memorandum and I immediately returned it to Goering. Certainly after nearly twelve years have elapsed I cannot remember every detail of the fields of tasks contained in that memorandum. I think I stated the most essential fields. Whatever else was contained in that memorandum I cannot state, unless I am given the opportunity today to read this memorandum in its entirety in order to state my position to the individual questions.

Q Now, was this memorandum -- tell us whether or not you recall if this memorandum from Hitler to Goering was read at the secret cabinet meeting of the fourth of September 1936, when you were present, along with a number of other economic leaders? Do you remember that it was then read or not?

A I have been interrogated repeatedly on that question and I have said that I cannot remember in detail whether Goering read this memorandum in part or in its entirety. Allegedly a notation was found, in some documents according to which Goering had read this memorandum. As far as I remember, this document did not originate from my office. If it did originate from an office of the Four Year Plan, it must have been an office affiliated to this Four Year Plan.

MR. SPRECHER: The document in question, Your Honors, is Exhibit 412, which is EC-416.

THE PRESIDENT: That is the point that I had in mind when you referred to it a moment ago. The document is in evidence and before the Tribunal. It does not seem to me there would be much probative value in whether this witness remembered it or did not remember it. In other words, the

document speaks for itself. We can read it and see what it says. Whether he remembers what it said or whether it was read at a particular time and place appears to me as not being very material to the issue here. Now, if it was a lost document, and we were trying to find out, without the text of the document, what it might have contained, I can well see why this inquiry would be proper. But when the document is here, it looks to me like it is wholly immaterial.

MR. SPRECHER: Well, Your Honor, I was not trying to fortify the import of the documents because certainly they are in the nature of best evidence, but in view of the fact that Defense counsel went into the matter with this witness and got into these very points I thought it quite proper to suggest to the witness some documentary evidence which might cause him to elucidate a little bit at this time as to what he meant by some of his answers during cross-examination.

Now I would like to ask him just one more question, if I may.

THE PRESIDENT: Certainly.

Q I'll skip over, in view of the remarks of the Tribunal, Hitler's note to Goering, but I would like to ask you about the conference of the 4th of September 1936 which also discussed the Four Year Plan. Do you recall whether or not the following statement was made: "All measures have to be taken just as if we were actually in the stage of imminent danger of war."

A It is quite impossible today to remember or confirm any such utterance. The menace to Europe has always been acute, especially during these years and it is quite possible that Goering, as a result of this threat, may have made a similar remark. Be that as it may, if Goering has made such an utterance it only arose from his worry about the menace to Europe and therewith to Germany.

Q No further questions.

THE PRESIDENT: Any further cross examination desired?
BY DR. VON KELLER (Counsel for Dr. von Schnitzler):

- CROSS EXAMINATION -

Q Witness, I should like to come back briefly to your affidavit, Exhibit 422, NI 5959 speaking of speeches of Goering on the 17th of September 1936. The Prosecutor has just referred you to another document which is purported to be a record of Goering's speech and he read some quotations from this document. Was it not customary at this time to use strong language in general, for example, labor battle, labor front, production battle, etc.

A You are quite correct. At that time strong expressions were always used. Goering particularly liked to use strong expressions.

Q Were these expressions always meant in the way in which they sounded to an unaccustomed ear?

A I don't believe so.

Q May I ask you what attracted the ear stronger, a few expressions of Mr. Goering's or during the Spanish Civil War the battleships of the major powers which were off the Spanish coast?

A I think the latter was stronger.

Q Thank you, no further questions.

THE PRESIDENT: Any further cross examination? Any redirect examination. None being requested, the witness is excused and the Marshal may escort him from the box.

MR. SPRECHER: Mr. President, may we have just about two minutes, please.

THE PRESIDENT: Surely.

MR. SPRECHER: We can't always tell just how long these things will last.

THE PRESIDENT: That's right.

MR. SPRECHER: The Prosecution will call ERICH GRITZBACH. There is only one document involved, Exhibit 403 which is in Document Book 19, English, page 76, and Document Book XV, page 1 of the German.

THE PRESIDENT: Mr. Marshal, bring in the witness.

ERICH GRITZBACH, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q The witness will remain standing, raise his right hand, say "I" and state his name.

A I, Erich Gritzbach.

Q The witness will now repeat after me: Swear by God Almighty.

A Swear by God Almighty.

Q And the Omniscient.

A And the Omniscient.

Q That I will speak the pure truth.

A That I will speak the pure truth.

Q And will withhold and add nothing.

A And will withhold and add nothing.

Q The witness may be seated.

MR. SPRECHER: I made one mistake; several of the defense counsel will be interested. I said Document Book XV; it has been pointed out that it is actually Document Book XXV, page 1.

BY MR. SPRECHER:

DIRECT EXAMINATION

Q State your full name, Dr. Gritzbach, for the record and give your present address.

A Erich Gritzbach, Pyrmont, Brunnenstrasse 33.

Q What is your present profession?

A I was Ministerial Director.

Q Are you engaged in any particular profession at the time, now, I mean.

A No, not now.

Q Now beginning with 1933 very briefly indicate the principal Government positions which you held.

A In 1932 I was Ministerialrat and Chief of the Ministerial Office of the Prussian Prime Minister, then Reich Commissioner for Prussia, Dr. Bracht. After the 30th of January Bracht was dismissed.

Q That is 1933.

Q 1933. Vice-Chancellor von Papen, the new Vice-Chancellor, as Reich Commissioner for Prussia, retained me in my old position as Chief of his Ministerial Office. On the 11th of April 1933 Goering took over the office of the Prussian Prime Minister. He offered to retain me in my office and I agreed. I remained Ministerialrat and Chief of the

Ministerial Office of the Prussian Prime Minister Goering, and at the same time his personal Referent. In 1936 I was promoted to Ministerial Dirigent; in 1936 I became Minister Director.

Q Witness, you have before you a copy of Document NI 976, Exhibit 403, which is an affidavit which you executed on the 14th day of August 1947. Is that correct?

A Yes.

Q Are there any corrections you would like to make of your own initiative concerning this document at the present time?

A I should like to give an explanation of this affidavit on page 2, on the second paragraph, about the tenth line. There is a sentence: "As far as Goering personally intervened in the Four Year Plan he always had Krauch with him at all big meetings and consultations as also for example the little cabinet, etc." I should like, for the sake of clarity, to change this expression "little cabinet" and then have it read "so called discussion of chiefs" for the following reasons: I learned from discussions in the preliminary interrogations, which have taken place between my affidavit and today, the opinion was held, and this is true, that there was a so-called little cabinet even before this. These discussions here were discussions of chiefs, that is to say, discussions attended by the chiefs of departments, the heads of Ministries, that is to say, Ministers. As far as questions of the Four Year Plan were discussed, the Ministers called in experts in the various fields, for example Mr. Krauch.

Q Any other corrections?

A No.

Q No further questions.

THE PRESIDENT: Does any defense counsel wish to cross examine this witness?

BY DR. BOETTCHER (for Dr. Krauch):

CROSS EXAMINATION

Q Witness, in your affidavit you are discussing the date when Krauch first made the acquaintance of Goering, on the occasion of his birthday, January 1937. If Krauch asserts that he only met Goering on the occasion of his birthday in the year 1938 can that be correct?

A That is quite possible, and I also believe that in my affidavit I said something like this, - here I have it - so far as I remember I made the acquaintance of Herr Krauch and Schmidt in 1937.

Q Thank you very much. With reference to the subject, presents to Goering: Is it correct, that is, as Krauch remembers it, Goering's office had told him and/or the I.G. beforehand, in a refined form of course, that Goering expects this and that present?

A No, this is impossible. I do not remember a single case when anything like that happened, that, as we say in Germany in French, something had been "entriert" arranged beforehand. Goering would have been absolutely opposed to this and in such a case especially since I didn't know the gentlemen at all, that would have been entirely out of the ordinary.

THE PRESIDENT: Does any defense counsel wish to cross examine this witness?

BY DR. BOETTCHER (for Dr. Krauch):

CROSS EXAMINATION

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Q Did numerous other industrialists send presents to Goering on the occasion of his birthday?

A "Numerous other industrialists," is too much, since Goering had only a comparatively small group of industrialists around him who were personally agreeable to him one way or another, not because of their profession activity, but because of liking or collaboration or similar things. This group, if I am to give an estimate, consisted of about 12 to 15 men of public life, I include industry, including bankers and so on and so forth.

Q Thank you very much. In your affidavit you estimate the value of these presents were 60 to 70 thousand marks. Is it correct that during 1938, and the years thereafter, prices of the presents and art objects which were given as presents went up over the peace-time value?

A Yes, that is certain. One must consider that the prices of the so-called art market had risen as much as 600 to 700 per cent, because of shortage and of certain dangers.

Q In your first affidavit you speak about Krauch's efforts and successes. Did you ever hear of any complaint about the lack of neutrality and objectivity on the part of Krauch?

A No.

Q Do you know that Colonel Loeb made the proposal to Krauch to leave the industry and take over a state position?

A I did not learn of that from Colonel Loeb but it was known that a similar offer was made to Mr. Krauch.

Q One last question. Do you know that the prestige of the I. G. was a sharply contested question from the party?

A It was contested in the party and also in the state agencies.

DR. BOETTCHER: Thank you very much.

I have no further questions, your Honors.

MR. DIX, counsel for the defendant Schmitz:

Q Dr. Gritzbach, in the affidavit with which we have just dealt,

you further said, on page 2 of the German text, after having mentioned that Dr. Schmitz and Dr. Krauch were congratulating Goering on the occasion of his birthday, in 1938, and I quote: "I knew that Krauch, as well as Schmitz, were already in touch with Goering in 1936 through his occupation with the raw materials and foreign exchange stuff, and the committee of experts and raw materials".

The record of this committee to which you refer has been submitted here, Prosecution Exhibit 400. It is the meeting of the 26th of May, 1936, and Geheimrat Schmitz, my client, is mentioned in the list of those present, the statement is therefore correct. In order to further refresh your memory, witness, let me read to you the first sentence of the opening speech of Goering on the occasion of this meeting. He first thanks everyone for being present, and then he goes on to say, "After experts questions had been dealt with, during the previous meeting, we are in full agreement that we are concerned in this meeting with the second session of this 'committee of experts'".

This leads us to the conclusion that there was a first meeting. Is my question clear so far?

A Yes, the question is very clear, but it is extremely difficult for me to say now which meeting it was. I personally was not present at either of the meetings. I knew only from memory that Geheimrat Schmitz attended one meeting. I believe that it was the Committee of Experts in dealing with raw material questions. I considered it quite possible that this could have been the second meeting, but I can say nothing definite about that, since I was not present at either meeting.

Q Quoting from the report of that meeting, page 32 of the German text, it says, and I quote: "Minister President Goering again pointed out that the cause of this meeting was the desire to approach the individual gentlemen with these problems so that they may acquaint themselves with them and find ways and means in order to master the situation". He goes on to say, and I quote: "Minister President

Goering proposes that a further meeting take place for the purpose of bringing up questions and states that he expects suggestions from the attending gentlemen about which in turn he intends to submit to a commission of other gentlemen".

My question, Dr. Gritzbach: Do you know whether this other meeting ever took place?

A I know nothing in detail about that. By way of explanation, from the year 1936 until the opening of the 4-Year Plan in the fall, in October, I had very little to do with the 4-Year Plan.

Q In that case you probably do not know whether the participants in this meeting actually did submit the suggestions as they were requested to by Goering?

A No.

THE PRESIDENT: As the Tribunal understood the witness, he has said that he did not attend either of these meetings, and it would follow that he would not be in a position to testify as to what happened at the meetings, when he was not there. Isn't that right, counsel?

DR. DIX: That is certainly so. That is why I formulated my question in such a way that I said, and I quote, "In that case you probably do not know whether such suggestions were made by the participants?" I did not completely omit the question, because after all, it is possible that such suggestions were made outside of a meeting and reached Goering; after all the possibility cannot be excluded that the witness, by virtue of his close official relationship to Goering, would have received knowledge of such an event. I thought that it was improbable and that is why I asked.

THE PRESIDENT: If he did receive knowledge, and was not at the meeting, then as to what happened at the meeting, it would be pure hearsay on his part. Let's get into another subject and move on.

DR. DIX:

Q Do you know whether this commission was ever set up? I

am referring to the commission which Goering initiated and spoke about during the meeting.

A I cannot say.

Q But by virtue of your general knowledge of the development in the economic political field, do you know perhaps whether through the announcement of the 4-Year Plan, and the coordination of the economic planning, did this committee not become obsolete and die a pleasant death?

A It is highly probably that the committee of experts after the preparation of the 4-Year Plan, was no longer active, because from that day on, its functions were assigned to other persons within the 4-Year Plan.

Q Your Honors, I am still flirting with another question, but I think it is possible--

THE PRESIDENT: Counsel, just bring it out into the open and ask it. The Tribunal suggests that you prebound the question, and it will not be a matter of flirtation.

Q You will understand my expression in a minute why I chose it. The objections of the prosecution are preferably put by myself beforehand, and I expect the prosecution will object. I could however, refer this--

THE PRESIDENT: Counsel, prebound your question. If there is an objection the Tribunal will rule on it.

Q At the beginning of your affidavit you are saying quite generally under paragraph 2 of this affidavit what the relationship of Goering to industry was. This passage concerning itself with Goering's relationship to industry occasions me to ask you in cross-examination, and I put my question:

If an industrialist had come to Goering and if he had said that this entire program of the 4-Year Plan, with all of its alleged autarchy regulations seemed to be a dangerous thing, it seemed it could possibly lead to a war, and say "I refuse to adhere to and execute this

program and to fulfill these production demands, because I am a
pacifist and I oppose every threat of war" what do you think would
have happened to this industrialist?

A. If he had said it in the form which your question indicates, and if Goering had learned about it, Goering would probably first have taken him by the arm and calmed him down. If he had continued to object and Goering, judging by his whole character, would have declared that he was not normal because he knew him. If he had still continued to object, Goering would have very clearly pointed out to him the consequences and these consequences are, no doubt, well known.

Q. This very pleasant special treatment by Goering was probably based upon the fact that Goering had a lot of humor and good will, perhaps. But if this industrialist for instance, had expressed similar sentiments towards another governmental agency, or had expressed such sentiments towards a third party, which had come to the attention of government agencies, would have fared the same way?

A. No, the strictest measures would have been taken. That is quite clear.

Q. I have no further questions.

THE PRESIDENT: Any further cross examination? There appearing to be none, Mr. Prosecutor, have you any redirect examination?

REDIRECT EXAMINATION

BY MR. SPEECHER:

Q. I have just one question in connection with the cross examination of Dr. Rudolf Dix.

Witness, the question with respect to criticism which was, from time to time, uttered in the presence of Goering was raised. Was it customary for such criticism by certain industrialists.... Was it customary for certain industrialists to make certain types of criticism to Goering, so far as you know?

THE PRESIDENT: Now, Mr. Prosecutor, we have had a lot of opinions in this affidavit and a lot of conjecture and now you inject into it the matter of custom.

I think we're getting pretty far afield from facts.

BY MR. SPRECHER:

Q. I didn't want to lead the witness, but I probably was too far from the mark. I'll try to direct the question more specifically.

Do you know whether or not Krauch made criticism to Goering with respect to the operation of the Four Year Plan?

A. Yes.

Q. And tell us whether or not you know the nature of some of these criticisms?

A. I can only explain that by a general presentation of how the meetings took place in the Four Year Plan or in the General Council, as far as Goering was the Chairman and Mr. Krauch was present. Krauch was a personality, as my affidavit indicates, much respected by Goering because of the authority and the intellectual qualities and the superiority compared to other experts in the field of the chemical industry. The meetings under Goering were not in the form of orders, but, first of all, there were debates after which Goering had made his demands, so that it was possible for a man like Krauch - and I remember such occasions - to make objections on one point or another and to bring about improvements and even to have certain points rescinded. At the moment, I cannot remember any specific case since the number of these meetings at which I was present or acted as Goering's assistant was extremely high, but from the general impression - I hope you will understand me this way - I have knowledge that Mr. Krauch, on occasion, could exercise criticism.

THE PRESIDENT: Is that all?

MR. SPRECHER: Yes, Your Honor.

THE PRESIDENT: Any further cross examination?

The witness is excused and the Marshal may escort him from the box.

Mr. Prosecutor, it's within ten minutes of the time of adjournment. I presume you don't want to call another witness today?

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THE PRESIDENT: Is that all?

MR. SPRECHER: Yes, Your Honor.

THE PRESIDENT: Any further cross examination?

The witness is excused and the Marshal may escort him from the box.

Mr. Prosecutor, it's within ten minutes of the time of adjournment. I presume you don't want to call another witness today?

MR. SPRECHER: That's correct, if it is agreeable to Your Honors.

THE PRESIDENT: It's agreeable. Can you make any observations with regard to your proposed program tomorrow that will be helpful?

MR. SPRECHER: Yes, Your Honors, We would like to call tomorrow the following witnesses, if possible:

Warlimont - General Warlimont

Dencker - Paul Dencker

Zeidelhack, and

von Klonck.

It may be that some of the other witnesses we have announced in the usual way through the Secretary General will be in and we can bring them also, but that will have to wait until tomorrow. In any event ...

THE PRESIDENT: You anticipate that the entire session of tomorrow will be consumed in examination and cross examination of this group of witnesses?

MR. SPRECHER: I should hope not, Your Honors. I can't see why it should. The number of affidavits and questions covered are relatively simple and we'll probably get on to some documents in the afternoon.

THE PRESIDENT: Very well. Any further observations or inquiries with reference to tomorrow's session?

If not, the Tribunal will rise until 9:30 tomorrow morning.

(A recess was taken until 0930 hours, 17 October 1947).

Official Transcript of the American Military Tribunal in the matter of the United States of America, against Carl Krauch, et al, defendants, sitting at Nurnberg, Germany, on 17 October 1947, 0930-1630, Justice Shake presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal VI.
Military Tribunal VI is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the court.

THE PRESIDENT: Are the defendants present, Mr. Marshal?

THE MARSHAL: May it please Your Honors, all the defendants are present save Wurster and Hoerlein, absent due to illness.

THE PRESIDENT: I believe this was the time when we said we would recheck on the matter of the cross examination of the witnesses, produced by the prosecution, whose affidavits have been introduced in evidence.

Is the defense ready to state its position with reference to that matter?

DR. NELTE (Defense Counsel for the defendant Hoerlein): Mr. President, Your Honors, after consultation with Mr. Sprecher on behalf of the prosecution, I should like to inform you regarding the affiants under Count I-G, according to the ruling of the Tribunal. The defense cannot dispense with any witnesses in this case.

The witnesses Bannert, Reithinger, Rupp, Huehnemann, and Haussen can be called for cross examination immediately.

We ask that the witnesses Krueger and Noack be deferred until we deal with Count II, and the prosecution agrees to this.

The affidavit of the witness Muench deals with statistical figures. We are of the opinion that this is a case where a stipulation with the prosecution should be attempted. In case it is possible, by mutual agreement, we can dispense with the cross examination of this affiant.

In regard to the affiant Diels, deliberations are still afoot

which will probably be concluded by the beginning of next week.

We ask your permission to state the opinion of the Defense in this case at that time. This is my statement on the actual test. The Defense should like to make a suggestion to the Tribunal on the basic question of the cross-examination in the case of affiants. The ruling of the Tribunal hitherto was that within an appropriate time the Defense could state whether an affiant was requested for cross-examination. This freedom accorded the Defense which was gratefully received seems to be endangered by the very short period of time given in the present case, and we ask that you not accept this short period of time as a rule.

The Defense believes that in order to achieve what the Tribunal and the Defense aim at, but also considering the difficult position of the Defense counsel, the rule should be: first that the Prosecution in each case after presenting the documents concerning one Count of the Indictment should give the Defense a list of the affiants in question.

Secondly, the Tribunal should then set a time limit, depending on the number of witnesses and the difficulty of the Defense in preparing a cross-examination.

Thirdly, the Defense should be allowed to present reasons in individual cases and to request an extension of the time limit set by the Tribunal so that when the time limit is up the right to cross-examination is not lost.

THE PRESIDENT: Thank you, Counsel. The time limit that was fixed as of today for the Defense counsel to advise the Tribunal with respect to their desires for the cross-examination of these witnesses was more or less a matter of emergency. We were confronted with that, and certainly we did not intend that this be construed as a precedent fixing a very, very short time for counsel for the Defense to make such commitments. On the other hand, the Tribunal is reluctant to impose upon counsel any iron-clad rule of time within which the Defense can

advise the Tribunal concerning such matters as these. You gentlemen ought to be able to agree upon those things without taking up the time of the Tribunal.

Our only thought was that it is a waste of energy and facilities to bring witnesses here if there is no desire to cross-examine them. It is an imposition upon the Prosecution to set in motion the machinery necessary to bring them here if they are not desired by the Defense.

We leave that to your good judgment and to the amicable relations that exist between counsel for the Prosecution and the Defense to work those matters out. It would only be when we are more or less confronted with an emergency or when we feel that there has been an abuse of discretion that we would intervene at all. We have no doubt that, with the experience that is now behind us, counsel for the Prosecution and the Defense can arrange a schedule and have an understanding concerning the matter of cross-examination of these witnesses. In the hope that that is true, we are not going to impose upon you any rules or regulations at this time.

I may say also that as we have said before it was not the thought nor the idea of the Tribunal to restrict or limit your right of cross-examination. Certainly no pressure was intended to force you into an unhappy situation of waiving something that you think that you should not waive. Whether or not you cross-examine a witness is for you and you alone to determine, and whichever way you decide, you will not be in the bad graces of the Tribunal in the exercise of those rights.

Mr. Sprecher, have you anything to say before we start with the next witness?

MR. SPRECHER: May it please the Tribunal, I think this might be an appropriate time to make a rather general reference to our plan for the next several weeks. This is now possible because of the statement which the Defense, through Dr. Nelte, made this morning.

Apart from the witnesses which have been announced as coming in the near future, we plan to go on more or less without interruption with the presentation of documents for the next five or six trial days. It may be that during that time some witness who comes from afar, or where there is some great difficulty in getting the witness here and he happens to turn up, that we will call him—but that will not be without the required notice and, if possible, with considerably more notice than what is actually required.

Now, with respect to the first five witnesses which Dr. Nalte mentioned, I would imagine at the present time that they would not come in much sooner than the other two, Krueger and Noack would come in, the reason being that we should be fairly well through the presentation of documents on Count 2 before any of those witnesses are called in. As much as possible, we will try to group them because, as I understand it, principally Dr. Bachem or one or two of the Defense Counsel will want to conduct the principal examination, and I think the attention of all of us to this point at more or less the same period of time will be helpful in the interests of an orderly trial.

I think I might mention with your permission a problem which is likely to come up in connection with the witnesses on Count 3, particularly as we get to the whole Auschwitz complex. It is not going to be easy, where the witnesses are available, to bring them in on very short notice—if we can bring them in at all in some cases—and questions of cross-interrogatories may give us considerable trouble at that time. Prosecution will lay before Your Honors and before Defense Counsel further proposals in that regard before we are through with Count 3, probably about the time we are beginning Count 3. Perhaps what we may do—and we haven't figured out in our own minds the best way to solve this problem—is submit all the affidavits we intend to use to Defense counsel quite some time before the rest of the document books are even ready and before the documents are actually presented so that Defense Counsel can be informed in advance concerning the matters given

under oath by these affiants, so that we can then start to order these people in before we present the documents on Count 3, which may not take too long.

The Prosecution would not want this trial—and I do not suppose any of us would want this trial—to come to the point where we had presented all the documents and then, because of a late announcement of the desires of the Defense with respect to cross-examination, we had to have considerable postponement while we waited for these witnesses to come in from various parts of Europe.

I think that indicates the general problem. I thought I would raise it now, with your permission.

THE PRESIDENT: Very well. Are you ready to call your next witness?

MR. SPRECHER: Yes, Mr. President. The Prosecution calls Walter Warlimont.

THE PRESIDENT: The Marshal will bring in the witness.

MR. SPRECHER: There is only one document in question; it is Exhibit 490, Document NI-3512, which is in the English Document Book 22 at page 75; in the German Book 25 at page 133.

WALTER WARLIMONT; a witness, took the stand and testified as follows:

THE PRESIDENT: The witness will remain standing and raise his right hand. The witness will say "I" and state his name.

WITNESS: I, Walter Warlimont...

THE PRESIDENT: And repeat after me: ...swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

The witness may be seated.

Prosecution may proceed.

MR. SPRECHER: If Your Honors would turn to the second page of the affidavit, I would first like to indicate two rather obvious typographical errors in the English. That is at page 76 of Document Book 22. Do you have it, Mr. President?

THE PRESIDENT: Yes.

MR. SPRECHER: The translation with respect to the dates is wrong in two places: at the end of paragraph 1 it states in "1945" — that should be 1935; and then, two lines lower, where it states "since 1944,"—that should be "since 1934." I think that may have been pointed out before, but just to be sure I mention it now.

DIRECT EXAMINATION

BY MR. SPRECHER:

Q Witness, would you state your full name once more, for the record?

A Walter Warlimont.

Q And since the collapse of Germany, in 1945, you have been detained as a prisoner by the Allied Forces, is that correct?

A Yes.

Q Now, starting with the year 1933, could you state very briefly the positions which you held in the German Army or in the German Government?

A In 1933 I came from East Prussia, where I was Battery Chief in an artillery regiment, to Berlin, to the Reichswehr Ministry, that is, to the Army Ordnance Office. There I had organizational work in the so-called Economic Group or Economic Department. In 1934 I became head of this department under General Thomas, and in 1935 I went with it to the High Command of the Wehrmacht in the same capacity. I held this position until 1936. Then I was in Spain for a few months. At the end of 1936 I returned from there and became an officer in the artillery in Trieste, and a year later I commanded the artillery regiment in Düsseldorf.

In the fall of 1938 I again was transferred to the Ministry of War, this time as head of the Department for Defense of the Country in the High Command of the Wehrmacht, the department which can be called the Operational Department of the Wehrmacht. I remained in this position until the beginning of September 1944. From 1942 on, it had a different name. I was Deputy Chief of the Wehrmacht Operational Staff.

Q Witness, you have before you a copy of Document NI-3512, Exhibit 490, which is an affidavit which you gave to representatives of the Prosecution, is that correct?

A Yes.

Q Now, this affidavit deals generally with the so-called Wehrwirtschaftsführer. May I ask you this? Did you personally have anything to do with the appointment of Wehrwirtschaftsführer?

A I was connected with it only in so far as the regulations for the appointment of Wehrwirtschaftsführer were worked out in the Economic Department. I had nothing to do with the appointment of the individual Wehrwirtschaftsführer.

Q Shortly after the first regulations, which are contained in this affidavit, were issued, did you accept a position which took you away immediately from the problem of the Wehrwirtschaftsführer?

A No. I must correct my answer: Yes, the regulation was issued in June 1936 and in August 1936—that is, two months later—I

left this position.

Q And between the time when these regulations were issued in June '36 and the time when you left this particular department, do you recall whether or not any Wehrwirtschaftsfuehrer were appointed?

A No.

Q Tell us whether or not you know if the regulations concerning the appointment of Wehrwirtschaftsfuehrer were altered after their issuance in the first instance in June 1936?

A I cannot say. I never worked in this field later.

Q So far as you know--and I realize that under the circumstances you do not pretend to state the actual fact of the matter, but so far as you know, were there alterations made after this time? Did you ever hear of any?

A A change or an extension might be seen in the fact that later the Reich Ministry of Economics appointed Wehrwirtschaftsfuehrer, too. But that is the only general change or extension that I learned about.

Q Did that happen in the year 1942, so far as you know?

A I cannot say.

Q Thank you. Now, you have before you the document, and I understand you also have an English translation. I understand you have one or two things to say about both. Would you begin with the German, please?

A The changes necessary in the German copy have already been mentioned by you.

Q Thank you very much. And what about the English, witness?

A I should like to make the following remarks about the English. According to the terminology in the War Department from the works of the historical division, the third paragraph, on page 2, should read, second line: not the "Chief of the Economic Department", but "Economic Section."

MR. SPRECHER: Your Honors, that is the third paragraph down

the page.

WITNESS: And after that, not "The Army Ordnance Branch" but the "Army Ordnance Office".

BY MR. SPRECHER:

Q Thank you very much.

A In the next line the word "department" is repeated; again that should be "section". The decisive sentence is in the next paragraph. There, I said that the following statements "taken from the notes of General Thomas and from documents reflect his recollections only in a broad sense." According to my knowledge of English, it should read as follows: "Therefore, the following facts which have been taken from the notes of General Thomas and from documents could be acknowledged by him as corresponding to his recollections only in a general way." The issue is that I could acknowledge the facts only in this limited sense.

Q One point, witness; you said, "acknowledged by him"; did you mean to say "by me" meaning you?

A Yes. I was following the style of this document. On the next page, if I may continue, the word, "even" in the first paragraph, the 4th line, I believe should be replaced by, "already".

Q Yes, that is a better translation. Do your Honors find that?

THE COURT: Yes.

BY THE WITNESS:

A In the next paragraph, there is a mistake where it says, in the third line, "He had left the staff of the Army". It should be, "He had left the Wehrwirtschaftsstab".

Q But not "the army"?

A No, not "the army".

Q Is there anything further?

A Yes, on page 5, "the tasks and duties of the Wehrwirtschaftsfuehrer are listed under No. 3 under 3 a 6 it reads, "to prepare and administer security measures". It should be, "counter-intelligence measures, Abwehr measures".

Q Thank you.

A On page 7, second paragraph it speaks of the information to be asked by the requesting parties. "For this purpose, the firm in German has to request", it should read "the inquiring office has to request," not the firm.

Q Thank you.

A On the next page, on the first line, "Engagement" is entirely out of the question". It should be "on principle out of question. The German word is Grundsatzlich.

In number 2 on the same page, second line, after, "Corps Headquarters" there should be the word, "or".

Q Instead of "of"?

A No, it should be added.

On page 9, the 4th paragraph, it speaks of the "duties" in

which the Wehrwirtschaftsfuehrer were to be instructed. In the 4th line, espionage is mentioned. It should be counter-intelligence, as the following words say. The mistake was probably made by making two corrections from the German word Spionageschwehr actually that word is meaning, "counter-intelligence". The Wehrwirtschaftsfuehrer had nothing whatsoever to do in the espionage.

Two lines later, as last duty is listed the, "supervision of defense". The translation of the German word, "Wehrueberwachung", means supervision of the regulations for the military service of the personnel. It is not "defense" but perhaps "supervision of the armed service regulations personnel."

That is all.

Q Thank you very much. Is there anything else?

A No.

JUDGE MCRAIS: Mr. Sprecher, it might be helpful to the Tribunal in gauging the proper scope of cross-examination which is to follow, if you would give us a statement as to the purpose of the introduction in evidence of Exhibit 490, and your idea of its bearing with respect to the guilt or innocence of the defendants.

MR. SPEECHER: Yes, your Honor. The Wehrwirtschaftsfuehrer was a title, and a type of office which was created, as has been stated, in the year 1936. Then appointments were made from there on until well on into the war. A number of these defendants were appointed Wehrwirtschaftsfuehrer and among the positions listed in Appendix A, your Honors will find Wehrwirtschaftsfuehrer.

Now in connection with the developments of this time, with respect to rearmament, and with respect to the war, we considered it important to indicate the general nature of this position, and underneath Control Council Law No. 10, Your Honors will recall that high position in the Military Economic life of Germany, has a certain significance, and just how much significance and just how high a position the Wehrwirtschaftsfuehrer amounts to, we think we should

lay before your Honors.

JUDGE MORRIS: Then you are contending that high position in official or economic circles under Control Law No. 10, is a matter which we are to take into consideration in determining the guilt or innocence of the defendants?

MR. SPRECHER: Yes, your Honor.

JUDGE MORRIS: I was wondering about that. Thank you very much.

MR. SPRECHER: Of course, I think that all of these things have some other connections, and I do not mean to entirely limit ourselves, but I think that I have indicated to you the most important connection of the matter at this time.

No further questions.

THE PRESIDENT: The defense may cross-examine the witness.

CROSS-EXAMINATION

OF MR. MARILLONT

BY DR. VON KELLER counsel for the defendant SCHNITZLER:

Q Witness, one formal question first. Under the regulations which start on page 3 of the German text, 7 figures are mentioned altogether, of which two however, are missing. These are the figures 4 and 6. Is this a typographical error, or were figures purposely omitted?

A I had not noticed that before. I cannot answer that question.

Q You compiled the document, witness, did you not?

A The document was drawn up by the interrogator after an interrogation, and it was given to me only to acknowledge it, and I did not notice this.

I should like to point out that on page 3 of the document, before the list, it says that "they contained amongst others the following provisions".

Q Oh yes, the prosecution just pointed out to me that the missing figures can be placed at our disposal.

Witness, did I understand you to say that your affidavit and the regulations therein stated, represent the status of the summer of 1936?

A Yes.

Q These were the thoughts at that time set up, were they?

A Yes.

Q Is it correct that these regulations only refer to the Wehrwirtschaftsfuehrer who were appointed by the OKW or the Wehrwirtschaftsstab, subordinate to it?

A Yes.

Q You stated before, witness, that at a later date the Ministry of Economics appointed Wehrwirtschaftsfuehrer?

A Yes.

Q You do not know the exact year?

A No.

Q Do you think it is possible that this was already the case before the war, in the year of 1937?

A I have no material on which to base an answer to this question on.

Q Are you perhaps acquainted with the fact that later, even in the Speer Ministry, they appointed Wehrwirtschaftsfuehrer?

A I do not know that that is a fact, but I consider it very probable.

Q Is it true if I say that because of these appointments by various authorities, some kind of fashion of Wehrwirtschaftsfuehrer started, and this had as its result, that the original thought of the year 1936 was completely distorted?

A My knowledge of the further developments is again inadequate, to answer this question accurately. Such an assumption, however, would correspond to the development in all similar fields in Germany at this period.

Q Witness, do you know whether the Wehrwirtschaftsfuehrer, as

such, at any time had to exercise certain functions?

A The duties, as far as they were to be carried out for the Wehrmacht, are given in the regulations reproduced here.

Q Witness, perhaps let me put the question more concretely.

The regulation has a post script. My question refers to whether you actually know that certain gentlemen, not because of their economic abilities, or abilities in other fields, but because of other abilities,-- that is, abilities as Wehrwirtschaftsfuehrer were chosen?

A I always thought that Wehrwirtschaftsfuehrer was merely a title. The functions of those resulted from the knowledge and position which the person had in economic life.

Q Witness, in order to clarify this document, let me put the following question to you. When Wehrwirtschaftsfuehrer corps are mentioned in the regulations. To a corps esprit d' corps. Do you know anything about that in the case of Wehrwirtschaftsfuehrer?

A No, I am sure the word is not to be understood in the same sense as an officers' corps, for instance.

Q Do you know that Wehrwirtschaftsfuehrer were organized among each other from a technical or regional point of view?

A They were organized insofar as the Wehrwirtschafts Inspectorate within a defense district may have considered it Wehrwirtschaftsfuehrer as an organization so far as they were appointed by the Wehrmacht.

They certainly had no contact among one another, which would correspond to an organization.

Q Do you know of any directives of a central nature which at a later date, - that is after the issuance of these regulations, - went to the Wehrwirtschaftsfuehrers as independently of their positions?

A No

Q Are you acquainted with the directives according to which the Ministry of Economics made appointments?

A No.

Q Then you neither know of the fact that later such appointments took place without the aid of questionnaires of special research?

A No, I never dealt with that subject at all.

Q After the year of 1936 you do not know how things developed?

A No.

Q But can you perhaps confirm quite generally, as you have already hinted before, that the original idea, as it was originated in the year of 1936, was completely distorted, and in fact, nothing more than a title was left?

A I can only repeat that my experience after 1936 is not adequate to make such definite statement, but from the very beginning I considered the whole institution only a question of title.

Q Thank you very much, Mr. Witness.

No further questions.

THE PRESIDENT: Is there any further cross-examination of this witness?

CROSS EXAMINATION

BY DR. KRAUSS (Counsel for defendants Lautenschlaeger and Jaeyne):

Q Witness, one question, to you. Is it correct that the statements you made in your affidavit limit themselves in Wehrwirtschaftsfuehrer which were appointed by the Wehrmacht, and who, as you say, were sworn to and engaged by it?

A I speak only of these.

Q Thank you.

Mr. President, no further questions.

THE PRESIDENT: Is there any further cross-examination? It not so appearing, is there any redirect examination.

MR. SPRECHER: No redirect examination.

THE PRESIDENT: The witness is excused and the Marshal may escort him from the box.

Call the next witness, Mr. Prosecutor.

MR. SPRECHER: Mr. President, may I have just a moment.

THE PRESIDENT: Certainly.

MR. SPRECHER: The prosecution calls as the next witness, Paul Heinrich Dencker.

PAUL HEINRICH DENCKER, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q What is your name?

A Paul Heinrich Dencker.

Q Repeat this oath after me:

I swear by God, the Almighty and the Omniscient, that I will speak the pure truth, and will withhold and add nothing.

THE PRESIDENT: The witness may be seated.

The witness is with the prosecution.

MR. SPRECHER: First, Mr. President, may I mention the four documents in question, and witness, will you just check it at the same time to see if you have them before you?

The Four Documents in question are Exhibit 50, NI 7239, which is found in Document Book 2, English 53, German 41:

Exhibit 548, which is NI 9479, in your document books 28, page 42, English, page 56 German.

The next, Exhibit 670, NI 7328, document book 31, page 24 English, page 25 German, and the last affidavit is Exhibit 696, which is NI 7237, found in Document Book 32, English page 83, German page 84.

Witness, will you once again state your full name for the reporters?

A Paul Heinrich Doncker.

Q And what is your present address?

A Kronberg in Taunus, Gauitastrasse 16.

Q And your present occupation?

A At present I am working for the control officer for I.G. Farben in the British zone.

Q And what was your address before the German collapse in 1945?

A At the collapse, I was living in Frankfurt on the Main.

Q And what was your position with I.G. Farben?

A I was head of the Central Accounting Department with the title Director of the Main Office and I had some other secondary functions in the subsidiary companies.

Q And you had held a position in the central accounting or central bookkeeping department from before the year 1933; is that correct?

A Yes. In the year 1926, I was employed when the central accounting department was established.

Q Now for near a year, from one time to another you have been questioned by investigators representing the prosecution; is that correct?

A Yes, that's right.

Q And from the beginning were you advised of the obligations of telling the truth, and the penalties for perjury or falsehood?

A Yes, in those cases when a formal interrogation took place.

Q I did not mean to indicate that every informal interrogation was under oath.

Now witness, with respect to these four affidavits of yours, which are in evidence, do you have any additions or corrections which you think it necessary to make at this time?

A I read through these four affidavits yesterday, and when I was interrogated by Mr. Charnatz I stated some additions to them.

May I point out that in Document 7237, exhibit 696, on the last page, a line has been omitted in the German text, which is correct in the English text.

Q Would you read it into the record so that the defense counsel can correct their copies?

A It should read: "Items of movable property to the full amount and for investments in buildings up to 20 per cent of the acquisition values".

And then, in Document 7238, which is Exhibit 670, I have used the expression, "peacetime requirements". I meant to say, "civilian requirements". I just want to clarify that point.

Q. Just a minute, Mr. Witness. I want to be sure the Tribunal is current. Your Honors, that's Exhibit 670, at page 24 of the document book 31. In the middle of the page, in the sixth line of the second full paragraph on the page there are the words "peace time needs", and the witness wishes to substitute therefore "civilian requirements".

Please proceed, Dr. Dencker.

A. Now, Document 7239, Exhibit 50.

Q. That's at page 53 of your Book 2, your Honor. 41 of the German.

A. I should like to explain something to avoid misunderstanding. In this document I referred to the judgment of the Reich Finance Court where the Dynamit A.G. has been recognized an organ of I.G. Farben in tax questions. This judgment was obtained by Dynamit A.G., in agreement with I.G. Farben. In my affidavit I have indicated the reasons, as far as I can recall, which were given by Dynamit A.G. in the law suit to prove its separate nature. In practical matters, the control of Dynamit A.G. by I.G. Farben was not as extensive as was theoretically possible. Within the I.G. concern, the Dynamit Aktiengesellschaft was a concern of its own. It was the explosives concern and was under General Direktor Dr. Paul Mueller. He was chairman of the Vorstand Aktiengesellschaft (joint stock company) and consequently, in his own sphere, he was responsible to his supervisory council and to his stockholders. That was the same responsibility as, for example, the Vorstand of I.G. had. Formally the Dynamit Aktiengesellschaft was incorporated in III of I.G., but that did not mean that the head of III, Dr. Fritz Gajewski, could necessarily interfere in the management of the Dynamit Aktiengesellschaft and the affiliated concerns, for to do so he had to go through channels, through Dr. Paul Mueller. As far as I can judge, Dr. Fritz Gajewski had insight into the affairs of the Dynamit concern only insofar as he attained this from Dr. Paul Mueller.

THE PRESIDENT: Mr. Prosecutor, what is this? A correction or an explanation of the document?

MR. SPRECHER: It's an explanation which the witness desires to make, Your Honor.

THE PRESIDENT: Very well.

THE WITNESS: As far as the granting of credits for new plants is concerned, I recall that, for the explosives field, they were not submitted to the TA. The theoretical possibility of gaining the majority control of DAG in respect to scheduled new investments by the TA could refer only to credits which were submitted to the TA.

THE PRESIDENT: Pardon me, Mr. Witness.

Mr. Prosecutor, I'm wondering if we're not getting into a state of confusion. The witness is talking as to what he thinks may be significant and they may be matters in which nobody has any concern. Certainly, you have a right to afford him the opportunity to correct his affidavit and to supplement his testimony, but I think that should be done in response to questions so that we will have some control of it. This might go on indefinitely, and it might be of interest or value to some one or might not. I think we had better conduct this in an orderly ^{way} and if you desire any information let it be in a question and answer form.

JUDGE MORRIS: May I inquire, is he reading from a prepared statement or are these spontaneous remarks? What is the witness doing?

MR. SPRECHER: Your Honor, the witness desired, after having talked to a number of people, not only representatives of the prosecution, concerning the DAG, to make an explanation between the financial field, which he knows very well, being the head of the Central Bookkeeping Department, and what that made DAG appear to him as a financial expert, but he would like to indicate that, for certain practical or technical purposes it is his understanding, from having been in business and personal contact with a number of the leaders of

I. G. Farben , that the practical outcome of this arrangement was somewhat different than what would be indicated by the financial control. When the witness indicated that to us, we thought we could possibly save considerable time by having him make this explanation, which he desires to make now and he has, I think, about three or four more sentences to state.

THE PRESIDENT: On that representation, go ahead and get it over with.

MR. STRECHER: I might suggest that I think the questions would come up in cross examination anyway.

THE PRESIDENT: That is just what we were afraid of here. If you leave it to a witness to volunteer statements that he thinks may be important, they might not prove to be important, but on your statement that he is almost through with his statements, let him continue and let's get along.

BY MR. SPRECHER:

Q. Will you continue, Mr. Dencker?

A. I have only one paragraph from the interrogation yesterday to read:

'Of course, the community of interests contract between I.G. and Dynamit Aktiengesellschaft, as well as the high capital participation of I. G. in the Dynamit Aktiengesellschaft placed upon the Vorstand of the I.G. the duty to watch the activities of the Dynamit Aktiengesellschaft. According to my observation, this was done essentially by the personal reports to Dr. Paul Mueller and the submission of the annual financial reports which were sent to Dr. Schmitz and Dr. Gajewski, as well as by the dividend guaranty calculations which were annually approved by Dr. Schmitz.

Q. Do you have any other corrections or additions to any of the other documents ?

A. No.

Q. No further questions.

THE PRESIDENT: The witness is with the defense.

CROSS EXAMINATION

BY DR. MEYER (Defense Counsel for defendant Gajewski):

Q. A few questions regarding your Affidavit 7239, Exhibit 50, Book 33, English page 21, German page 16. You have already defined your attitude towards these questions when making your explanations just now. For purposes of clarification, let me put the following question to you: What was the purpose of the trial before the Reich Finance Court which decided the organizational, financial, and economic dependency of the Dynamit Aktiengesellschaft on I.G. Farben?

A. The issue was whether the mutual deliveries and payments between I.G. concerns and DAG had to be subject to turnover tax which amounted to 2%.

Q. Did these deliveries assume a large extent?

A. Those were amounts of about twenty million marks or more annually, but the trial was concerned not only with the question of the membership in the concern of DAG, but the question of membership in the concern of other firms with whom the I.G. had community of interests contracts. In the preliminary examination, the investigators of the Finance Office pointed out that they would also contest the corporate status of the Riebeckische Montanwerke if we

THE PRESIDENT: (Interrupting) Mr. Witness, pardon me. You should undertake to answer the questions that are propounded to you very simply and very directly and, above all, very briefly. You need not trouble your mind as to whether or not you have sufficiently answered the question, because counsel who is interrogating is free to exercise his own judgment as to whether or not he wishes a more complete answer and if you will please remember that it will very much facilitate the trial of this case. We say this because we know you are a layman, perhaps not altogether familiar with court

procedure, but while you are on the stand, if you will bear in mind to try to answer the question just as briefly and directly as possible, and not concern yourself as to whether it is sufficiently complete and leave it to counsel who is questioning you as to whether or not he wants to ask you another question, we'll appreciate very much your cooperation.

BY DR. MEYER:

Q. Yes. My first question was, did these turnover taxes between DAG and I.G. assume a great extent?

A. Yes, I have already answered that question.

Q. Did this tax controversy concern other deliveries with other subsidiary companies?

A. Yes.

Q. Is it correct that the prerequisite for any release from taxes is an organizational financial and economic dependency and that this is formulated in that way in the law?

A. As far as I remember, it was not a law, but it was a principle established by the Reich Finance Court.

Q. Was it not necessary, therefore, to consider the formal points of view and the details of the community of interests contract between DAG and IG according to which the DAG had to obtain the approval of the IG with regard to business transactions which went beyond the scope of their usual business?

A. Yes.

Q. Are you in agreement with me that the foundation of a subsidiary company for the purpose of the erection and putting into operation of new production installations is a matter which usually goes beyond the ordinary business?

A. I cannot answer that questions with "yes" or "no" because it depends on the duties of the subsidiary company which signs the contract.

Q. I am referring to a company, for instance, the Verwertchemie G.m.b.h. which erected a number of new installations and put them into operation. Do you know whether, before the founding of such a company, the Vorstand of the I.G. was at all consulted?

A. No, I do not know.

Q. Accordingly, could one not say that the actual relationship between DAG and the I.G. is not in accordance with the reasons as they

are given in the taxation law suit?

A. The extent was not as great as it was presented in the law suit, that is my conviction.

Q. In connection with the individual points which you raise, you are mentioning an economic dependency of the DAG on the I.G. Farben and you refer to the fact that the I.G. was the main supplier of certain preliminary products for the DAG. My question is, does not this also hold true of any other enterprise - for instance, plastic industry - in the same way - if the I.G. mastered the German market in the case of these products, as you say it in your affidavit?

A. Yes.

Q. You state, furthermore, that in the year of 1932 you once received an order to audit the business of the DAG with reference to synthetics. Actually this would have fallen within the framework of tasks to be performed by the supervisory board of the DAG. Can you tell me whether a majority of representatives of the I.G. belonged to the Aufsichtsrat of the DAG?

A. I do not believe so.

Q. You are then speaking about the credit demand - in other words, the demands for means for purposes of new investments of DAG in front of the technical committee. Did I understand you properly before to the effect that this demand did not refer to military products? I am referring to this demand from TA.

A. As far as I remember, not cases of military production but explosives altogether.

Q. Beyond that, are you acquainted with a positive case where the technical committee of the I.G. took a vote and Dr. Miller was defeated in the voting?

A. No, that was not customary to vote in meetings of the TA.

Q. Under paragraph 4, you are discussing the incorporation into class III of the DAG and you have added an explanation to that before. Do you know when the production fields of I.G. were divided into three

categories?

A. That was about 1929.

Q. Have you ever heard that, not very long thereafter, perhaps in the year 1931 or 1932, a discussion took place in Heidelberg between Mr. Bosch, Dr. Paul Mueller, the head of the DAG, and Dr. Gajewski regarding the question whether Dr. Gajewski was in any way the superior of Dr. Mueller?

A. No.

Q. You never heard about that?

A. No.

Q. Do you think it is possible - and there are statements to that effect which we will submit into evidence later - that this question was clarified to the effect that Dr. Gajewski should not be superior of Dr. Mueller?

MR. SPRECHER: Aren't we dealing here with speculation and possibility? I object as it is not being helpful to this inquiry.

THE PRESIDENT: Well, the Tribunal is not interested in possibilities and it does seem that the witness sufficiently answered the question when he stated, in response to the previous inquiry, that he never heard of the matter.

The objection is sustained.

BY DR. MEYER:

Q. Witness, do you know whether, after the categories had been instituted, Dr. Mueller or another representative of the DAG ever attended these meetings?

A. No.

Q. You do not know that.

A. I do not know.

Q. Do you know to what extent Dr. Gajewski concerned himself with the technical development of the DAG?

A. I was not able to observe that. No.

Q. You could not.

Accordingly, your statements do not refer to the technical part,
do they?

A. No, in my statements I wanted to reproduce what reasons
were given for the application to the Reich Finance Court.

Q. Only that?

A. Yes.

Q. Thank you.

THE PRESIDENT: Counsel, rather than to interrupt you cross
examination in about two minutes, I think we shall at this time rise
for our morning recess.

(A recess was taken).

THE MARSHAL: The Tribunal is again in session.

DR. SILCHER: Dr. Silcher, counsel for the defendant von Knieriem.

CROSS EXAMINATION.

BY DR. SILCHER: for the defendant von Knieriem:

Q Dr. Dencker, my questions refer to your affidavit, Exhibit 50, You said that the decision of the Reich Finance Court which practically exempted the vice-versa deliveries from I.G. to DAG from the turnover tax was also of importance for other subsidiary companies, were also concerned with large-scale deliveries?

A Yes. I already pointed to the A. Riebeck Montanwerke which delivered coal and power to the I.G. plants to an amount more than ten millions per year.

Q But is it not right that these were not only unique tax amounts but this held true for the future for decades too?

A These were current taxes which amounted to very considerable amounts every year.

Q Mr. Dencker, with reference to the formulation of the decision, you said that the DAG depended upon the I.G. financially, economically and organizationally. You went on to say that as far as you know this formulation was developed by the Reich Finance Court. If I put to you that this is actually the formulation of the law, paragraph 2, article 2 of the turnover law, and the regulations governing its executions, would you consider it as probable?

A I certainly accept your statement.

Q According therefore was it absolutely necessary that the Reich Finance in order to obtain the desired purpose in its judgment had to arrive at that formulation?

A Yes.

Q Mr. Dencker, you said before that you did not believe that the I.G. had a majority in the Aufsichtsrat of the DAG. Do you know

of how many members the Aufsichtsrat of the DAG consisted?

A No. The number of Aufsichtsrat members changed considerably from the beginning of the mutual interest contract in 1926.

Q Do you know that according to the corporation law of the year 1937 the highest number of the Aufsichtsrat members of any shareholding company was twenty?

A Yes, I remember that.

Q Do you assume or do you perhaps know at least approximately that the DAG had this majority number of twenty in the Aufsichtsrat?

A I do not remember that.

Q Is it not true that the larger subsidiary companies of the I.G. such as Riebeck, DAG made use of their maximum number of twenty in the Aufsichtsrat?

A I cannot say from memory.

Q You have stated that I.G. Farben throughout these years was represented in the Aufsichtsrat of the DAG by the gentlemen, Bosch, Flechtheim, Gajewski and Schmitz. This was not simultaneous, but they followed each other, is that right?

A Yes. They were not all in the Aufsichtsrat at the same time.

Q Did you mention all of the Aufsichtsrat members of the DAG who came from the Farben concern as you knew?

A I mentioned only a few whom I remembered when I drew up the affidavit.

Q Now from memory you cannot say reliable what the total number of the Aufsichtsrat members in the DAG were who came from the I.G.?

A No, but it would be very simple to find out by looking at the business reports.

THE PRESIDENT: The Tribunal should like to remark that that question has been answered, but no harm done. He has answered it again. Let's get along.

DR. SILCHER: This was my last question, Your Honor.

THE PRESIDENT: Any further cross examination of the witness?

None being requested, any redirect?

MR. SPRECHER: None, Mr. President.

THE PRESIDENT: Mr. Witness, you are excused, and the Marshal will escort you from the box.

The Prosecution will call its next witness.

MR. SPRECHER: The Prosecution calls as a witness Max Zeidelhack.

THE PRESIDENT: The Marshal will bring in the witness.

MR. SPRECHER: While we are waiting, perhaps I might lay before Your Honors the three documents which come in question, Exhibit 617, which is NI-9203. That is in Document Book XXXV, page 1, of both the English and the German, and the second affidavit of the witness is Exhibit 673, Document No. NI-9192, Document Book XXXI, page 33, English, page 83, German, and the third is Exhibit 698, Document No. 9193, Document Book XXXII, page 104, English page 100, German.

MAX ZEIDELHACK, a witness, took the stand and testified as follows:

THE PRESIDENT: The witness will remain standing, raise his right hand, say "I" and state his name.

THE WITNESS: I, Dr. Max Zeidelhack, --

THE PRESIDENT: The witness will now repeat after me: -- swaer by God, the Almighty, and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: The witness may be seated.

DIRECT EXAMINATION

BY MR. SPRECHER:

Q Witness, will you repeat your name and give your address?

A Dr. Max Zeidelhack, at the present residing in Munich, 42.

Q What is your --

A von der Pfordtenstrasse 25.

Q What is your present occupation?

A I have no occupation since four years and a half.

Q Now prior to 1945 what was your address?

A Up to January, 1944, my address was Berlin, Gruenewald, August Victoria Strasse, 80.

Q Now beginning with the year 1933 or 1934, would you state what positions you held in the Army Ordnance Office? Please state them very briefly.

A On the 1st of January, 1934, I received a State position and within the framework of the 100,000 men army I was detailed as a Wehrmacht officer to the Economic and Contract Office of the Army Ordnance Office. Then on the 1st of October, 1934, I became a Regierungsrat, and on the 1st of November, 1934, I became Oberregierungsrat. On the 1st of October, 1935, I became Ministerialrat. On the 1st of July, 1940, I was Ministerialdirigent and had to leave the army on the 31st of January, 1945. I became departmental chief of the Economic Department on the 1st of February, 1938, and retained this function until my reprimand by Reich Minister Speer. I left this position on the 18th of January, 1943.

Q All right, witness. Now you have before you these three affidavits. Have you gone through them with Mr. Charmatz in the last day in order to check them and see if there are any necessary corrections?

A Yes.

Q Would you indicate to which documents there are corrections? You have the document number and the exhibit number.

A I cannot give you the exhibit number because I have only my German copies before me. I refer to Document No. 9203, as much as I can see from the correction.

Q That is Exhibit 617, at page 1, Exhibit 617, Document Book 35. Will you wait just a minute until--Just one moment please continue.

A I have supplemented the last sentence of the affidavit, under paragraph 2. I am referring to the passage speaking of the "research and development in the field of chemical war agents was predominantly in the hands of the I.G. Farben concern. The supplementat-
ion reads as follows: "Product of this development, as far as I know, were in the first years of the rearmament not produced to a large extent by I.G. Farben themselves but at a later date were produced by the Montan factories at Dyhernfurt and Falkenhagen."

Q Anything else to that affidavit?

A No.

Q Will you pass to one of the other two affidavits then?

A I have nothing to add to the other two affidavits.

MR. SPEECHER: No further questions.

THE PRESIDENT: Defense may cross-examine. Just a moment, please.

Now, Mr. Witness, when questions are put to you, we would appreciate your cooperation if you will answer them as directly, simply, and above all, as briefly as possible. If you have a feeling that your answer is incomplete or that you should add more to it, counsel who is cross-examining you will be free to make further inquiries. If you will bear this admonition in mind, it will make for orderly procedure and we will very much appreciate your helpfulness.

Counsel may continue.

CROSS EXAMINATION.

BY DR. GATHER (Counsel for the Defendant Ambros):

Q Witness, first of all, I shall deal with your affidavit NI-9193, Exhibit 698, Book 32, English page 104, page 100 in the German. In this affidavit, witness, you have given certain calculation which deal with the requirements of the peacetime army. This expression "requirements of the peacetime army" is not quite clear to me. What do you mean by that phrase, witness? Do you mean the consumption of the army in peacetime?

A The consumption of a peace army which has been fixed at a certain strength.

Q Well, consumption in peacetime in the chemical field is, of course, slight because, as everyone knows, very little gunpowder is used during peacetime. Did you include the fact that every army and every general staff in the world must count on the eventuality, for example, of defense?

A Naturally that fact was included.

Q In the chemical field how was this calculation realized?

To make my process of thought clear to you, were stand-by plants or "shadow" factories created? That is, plants which were used not for production but which were ready to produce for this eventuality?

A I assume that you want to know about these matters from the point of view of production only?

Q Yes.

A The arsenals of an army existed already during peacetime.

Q You say "the army..."

A I am now speaking of the 100,000 men army which was fixed with this strength in the year 1934.

Q Well, then you are basing your calculation on the 100,000-men army.

Are you contrasting needs of this 100,000-men army with the existing in the chemical field in 1939? Is that right?

A I did not say that. I am starting from a 100,00-men army for which, in the years 1934 to 1937, a higher strength was stated than that amount. In the year 1934 this strength, starting from the year 1934, reached a figure of 500,000 men. In the second and third years it increased to a figure of 900,000 men, and in the year 1938 there was a peacetime strength of the German Army of 1,300,000. This includes reserves.

Q And you included this development in your calculation?

A Yes. I am certainly referring to one year. I am referring to the year 1936.

Q Thirty-six, I see. Then it is no doubt true that the requirements of the chemical field depended on developments in the military field?

A According to the strength of the army.

Q And who decided that?

A The General Staff.

Q That is right. Well, then if I understand you correctly, the industrialists, for example, had no influence in that fact; they were simply given the assignment to cover the needs as set by the General Staff?

A Yes.

Q Thank you. Do you believe that the chemical capacity of 1939, I believe, included the shadowⁿ factories and the stand-by plants, is that right?

A I can only speak about those.

Q That is right. Do you believe that would have been adequate in case of emergency?

A I personally believe that they would have been more than adequate.

Q That is your personal opinion. Then how do you explain the fact that in a later affidavit you say yourself the "Montan Werke, in 1942, had numbered 108 plants, 76 of which were in the chemical field." That is, twice as many.

A I have distinguished between the planning and the execution. There were certainly not a hundred and eight plants in full production.

Q Not in 1939 either?

A No.

Q Very well. Is it true if I conclude that for this emergency these capacities were not adequate? Otherwise, in 1942, there would not have been twice as many plants.

A That cannot be seen and cannot be considered to be correct from this point of view. It is, however, correct that the raw material basis was absolutely decisive if in addition to old non-operating plants, new plants had been erected. Up to the year 1942 it was already important whether Trinitrotoluol, Diglycol, TNT, or denachyde were going to be processed. In this case, new planning did not seem to be sufficient even if older plants were not working up to their full capacity.

Q You, no doubt agree with me that all these plants were built on orders from the Army? In 1939 as well as in 1942?

A Yes, according to formal orders.

Q And what distinction do you see? What is the opposite of formal?

A I make the distinction from a purely organizational point of view. New plants were drawn up without their being a temporary building assignment. A detailed, final building assignment, a system, of contracts had not been given to the plant, in spite of the fact that preliminary work had already advanced rather far.

Q Let us be more concrete, witness. The order was formal, and such a plant, is not built because of formal orders, it has to be

financed, before that. Who financed these plants?

A The chemical department of the Army Ordnance Office, the departmental chief of which advanced these sums.

Q I see, well then let us say, the OKW or the Army or the Reich- whatever you want to call it. In any case it was a State agency.

A I am now speaking only about industry belonging to the Army.

Q Yes, and that is no doubt what you meant by 108 factories in 1939. Now, why did not the industry finance these plants?

A.- I.G. Farben did not get or receive from the OKH one pfennig of credit, not even operational credit.

Q.- Why not?

A.- According to the contract which governed industries belonging to and working for the Army, the OKH saw no occasion to place any credit at their disposal.

Q.- Is it true because OKH was exclusively interested in the building of these plants?

A.- You could not say that; you would have to limit that statement.

Q.- What limits do you refer to?

A.- Basically, the OKH was not the really interested party; it was the German Wehrmacht which was interested.

Q.- I see.... the Wehrmacht. Is it true to say that financing was done by the Reich because one could not expect the industrial firms to take the risk?

A.- There was always a risk for the firms: that was the risk in the operation.

Q.- Only that, but they were covered financially?

A.- No, there was no cover. There was no cover in case of losses for firms who were working for the Army. The OKH did not guarantee that in any way.

Q.- Do you believe that without financing from the Reich these plants would have been built?

A.- No.

Q.- Thank you. In another affidavit, Exhibit 673, NI-9192, you give the various forms of financing and on page 4 of this affidavit you distinguish between financing by the Reich and financing by the I.G. You say that I.G. itself would have financed the field of synthetic gasoline and Buna. Why did the I.G. prefer to finance itself in that case?

A.- Because this could be later extended into a world market production.

Q.- If I understand you correctly, it was because this was an article which had a definite peacetime character?

A.- But not really peacetime character. After all, these were Ersatz products, synthetic gasoline and Buna.

Q.- Yes, but they wanted to finance themselves because in the long run the risk was smaller, because there was a peacetime character to the product?

A.- Yes.

Q.- Thank you. In this affidavit, 673, you speak of the initiative of I.G. Farben in obtaining such assignments. You say that I.G. and DAG -- which you quite correctly separate -- in a number of cases approached the Army Ordnance Office with the intention of convincing the latter of the necessity of building projects and to obtain the assignment to build. Is this especially true with respect to the I.G. Plant Huels?

This statement might give the impression that the I.G. approached the Army Ordnance Office and said, "Please give me the assignment."

Do you know when Huels was built?

A.- According to the plan, Huels was built in the year 1938.

Q.- That is right; the foundation contract of the firm is dated Mar, 1938, exhibit 347. Now, do you know when the Army Ordnance Office gave I.G. Farben the order to work on Ethylene chemistry in Huels?

A.- Very much later.

Q.- On what do you base this knowledge?

A.- On an inspection trip of the terrain. As far as I remember --

Q.- Well, maybe --

A.- This inspection trip took place later than 1938.

Q.- Which does not exclude the possibility that the OKH could have approached I.G. earlier. To refresh your memory, may I perhaps quote a passage from Exhibit No. 659, Document Book 36, page 145, NI-10595? This

is the testimony of a gentleman who is certainly competent in the OKH, a Dr. Ehmann. He says, on page 160, it is page 9 of the document: "In March 1937 the assignment was given for the Lost plant near Dorsten, in Westphalia, to Orgacit. The site of the plant which led to the foundation of the chemical works Huels, a joint foundation of I.G., three quarters, and Hibernia one quarter, because later however not Dorsten but a site near Recilinghausen."

A.- The word "later" is mentioned here, too.

Q.- Yes, I mean the establishment of Huels in May 1938. Then it is true, is it not, if you remember now, that the assignment of the OKH was initialed a year earlier?

A.- I do not know that. Dr. Ehmann belonged to the Chemical Production Department.

Q.- You consider it possible then?

A.- I think it is possible that discussions about requirements, planning, etc., took place.

Q.- There was even a direct order. Then you may wish to change your statements on page 1 of your affidavit, Exhibit 673?

A.- No.

Q.- Why not? Do you have any concret evidence to show me that your statement is correct?

A.- I can only judge from my point of view of the contract, from point of view of my department which dealt with contracts.

Q.- Do you know that in legal life contracts often are made years late?

A.- Yes, but you cannot ask me to remember the date of paragraph 1 or 2 of the lease contract for Huels, and the date for this plant to get into operation.

(DE LATER continuing)

Q Limitations mentioned in the opinion - these dates could be from a contrastional point of view?

A Yes.

Q Now if Orgazit was given an assignment by the Army Ordnance office, the assignment did not come to the I. G. Farben at all?

A No.

Q Why was Orgazit given the assignment which later became Fuels of the Ordnance office:

A At all times, firms which had gained a certain amount of experience in building, were asked to carry out that task.

Q Was not Orgazit the expert in Lost production?

A I cannot judge that from the chemical point of view. I can only say from an administrative point of view, that the plant at Annendorf was operated by Orgazit.

Q Another point, we are still on the Fuels question. Then probably you cannot testify from a chemical point of view, that it was obvious that Orgazit was given the assignment in 1937, the project of the OKH, that later because Fuels was later attached to I. G. because ethylene was produced there in the course of Buna production?

A We don't know if the enterprise Fuels, in my department, with any other name but the name of I. G.

Q On page 2 of Exhibit 673, you say, " the unusually large part of I. G. and DAG in the construction projects of the OKH was based on the fact that these firms had extensive initiative in finding the building spots, and setting up specific planning."

I assume, witness, that you merely mean to say here that technically, as you indicated earlier once, that I. G. was able to carry out the assignment issued by the OKH, and financed by the OKH, in a relatively good formula from a technical point of view?

A Yes.

Q Thank you. Now did only I. G. have to carry out such assignments?

A You mean the chemical sector?

Q Yes, the Chemical sector!

A There was the firm Wolff.

Q You don't remember any other firms? You have already mentioned one. What about Orgazit; companies of Orgazit?

A There was Kalchemie, a partner of Orgazit GmbH.

Q What were the companies of Orgazit?

A Kalchemie and Auergesellschaft.

Q Not I. G. companies?

A I do not know exactly what the share and relationship was.

Q Apparently you are not an expert in that field, and therefore we need not go into it. I regret that you did not have an opportunity to study the prosecution document Exhibit 621, in Book 35. It gives a very clear statement of the Orgazit organization.

Now how about Lonal, Ergetan, Leese, Stassfurt and Hasenhorst? Ergetan and Goldschmidt, is that IG?

A I don't know that.

Q Now if you are not so well acquainted with this field, I assume that your testimony must be accepted with this reservation?

A No, but the status of these plants, according to figures, is as from the first of January, 1942, and the proportionate figures date likewise as from that period.

Q Orgazit, for example was not in existence in August, 1942?

A Orgazit was already in existence in the year 1942.

Q And the others?

A Leese and Lonal did only exist in the year 1942 so far as planning was concerned, so far as I know, the Lonal Werke in Hasenhorst werke only were brought into operation in the year of 1943.

Q We will not go into that. It is not an I. G. Farben firm.

Now I should like to speak of Exhibit NI 9203, Exhibit 617, book 35, and I will ask the Tribunal to let the defendant, Ambros, carry out the crossexamination here since it is purely technical

questions.

THE PRESIDENT: Very well.

BY DR. AMBROS:

Q Your Honors, this is Document NI 9203, Exhibit 617, in book 35. Dr. Zeidehack, do you have the document?

A I have my own copy before me. This is the German translation.

Q Do you have exhibit 617?

A I do not know the number.

Q On NI 9203 it says in the right hand top corner?

A Yes. I have found that.

Q Dr. Zeidehack, we will go into a question here, - a question of research and development in the field of chemical warfare agents. On page 1, you say about the research offices of the CKF, and I emphasize of. What does that mean?

A Research and development.

Q A group for research and development was competent in the field of chemical warfare agents you say; do you mean to say by that, that this department, was the research office, I emphasize the research office of the CKF, for chemical warfare agents Vef?

A I don't want to say that.

Q Thank you. You assert that the development and research do not have any important work, and did not have any important results, because the budget was only 300,000 marks?

A Yes, for some years.

Q Do you know who was the head of the department for development and research for a few years?

A Ministerialdirigent, Dr. Schumann.

Q Professor Dr. Schumann. Do you know that among other things he did work on N substance?

A He in the contract department --

Q Yes or No, please.

A I don't know what N stuff is; at any rate I don't remember.

Q Please be more specific. Please answer my questions with yes or no. I believe that corresponds to the rulings of the court. I will repeat the question. Do you know that he produced N substance?

A The answer is No. I only know of chemical warfare agents.

Q Do you know that he produced N substance?

A I heard something of that.

Q Did you hear enough to know of a technical laboratory Godoff near Kammersdorf.

A I know that Dr. Schumann often went to Kammersdorf.

Q What did he do there?

A He tested the substance for Falkenhagen.

Q That's right. Do you know of the work of Dr. Roemer? Prof. Dr. Roemer?

A No.

Q Do you believe that with 300,000 marks, with the technical laboratory at Godoff, the laboratory for Professor Schumann with many associates -- the work that Professor Roemer, and last but not least, the research work of Dr. Schumann in Falkenhagen could be financed? Yes or No.

A I never said that, No.

Q "You have given the sum of 300,000 marks from 1935 on for several years" as a basis and you explained that nothing could be accomplished by the Research Institute.

A I did not attend these meetings of the budget -- correction. I did participate in the meetings of the budget.

Q Do you know that the whole conversation here is irrelevant because the poison gas research was not made up by the department for the development of research at all? Yes or No.

A I should like to raise an objection against the method of questions by the defendant.

DR. AMEROS: I ask the Court for protection.

THE PRESIDENT: What is your objection?

THE WITNESS: I protest against the manner in which director Ambros is questioning me, to try to put yes or no into my mouth.

THE PRESIDENT: Witness, ordinarily simple questions can be answered yes or no. If you find that you are in a situation where yes or no will not suffice, the Tribunal will bear with you to allow you to answer the question if you will do so briefly, but you need not be tied down to a yes or no answer in every case.

Do you understand that?

THE WITNESS: Yes, I am in this position now, Mr. President.

THE PRESIDENT: Very well. Make your own answer in your own way, bearing in mind to make it as brief as possible.

THE WITNESS: The next question please.

BY DR. AMBROS:

Q Do you know that poison gas research was under 'A Pruef P?

A 'A 9 arose from 'A F.

Q I repeat my question. Is it a mistake when you said that it was under 'A F?

A It is an error on my part and you can correct it. I consider it stuff to be chemical warfare agents.

Q Do you know the names of any leaders or important men in 'A Pruef 9?

A I knew one departmental head.

Q What was his name?

A Colonel Dr. Cham.

Q Can you tell me what the staff of 'A Pruef 9, consisting of Colonel, Schmidt, Hirsch, Linde, Gebhard, and ten other chemists and physicists did.

A Only insofar as Grundstuecks Gmbh, Stagliitzer Strasse 7 was considered by us to be a juridical person.

Q I cannot imagine that natural physicists and other scientists, - had to do with real estate but I must correct myself, - Grundstuecks GmbH was a code name of yours for ballistics. I withdraw my question.

Are you aware that this Wa Pruef 9 work was done in various places? Do you know as you worked on the budget, since you knew about the finances, you must know where they worked?

A I only knew the budget of those who were working for the army; I did not know of budgets of chemical laboratories.

Q May I say that this was a concern working for the army, since all of these men were dressed up like soldiers.

A I did not know of any plant working for the army except for three which are mentioned.

Q The three here in the affidavit you mean?

A Amtsgruppe Wa F, Amtsgruppe for Development and Research, the Department Dr. Dornberger at Peenemunde, and the Steglitzer Strasse 7, Grundstueck G. h., G. E.

Q Dr. Zeidelhack, to hasten this proceeding, I may say, do you know first of all, that Wa Pruef 9 first had a laboratory in Spandau, a technical laboratory in Spandau and third a big research establishment in Muenster lager? Is that right?

A I cannot confirm that.

Q Thank you.

THE PRESIDENT: Dr. Ambros how long will it take you to complete your cross-examination?

DR. AMBROS: I am sorry; about half an hour.

THE PRESIDENT: The Tribunal will arise at this time for lunch.

(Court in recess until one-thirty)

AFTERNOON SESSION

(The hearing reconvened at 1330 hours)

THE MARSHAL: Tribunal VI is again in session.

DR. GATHER: To continue the cross examination I ask that the defendant, Ambros, be called to the Rostrum.

THE PRESIDENT: Yes, that is perfectly agreeable to the Tribunal.

I may say to counsel for the defense, however, that over the noon hour we have refreshed our recollection as to the contents of this affidavit, and so far as any cross-examination along the lines of chemistry are concerned, it occurs to us that this is a pretty narrow field; there is not much room for a very extended cross-examination so far as time is concerned.

We merely suggest that to counsel so that we may have his help in keeping the cross-examination in the proper limitations.

DR. GATHER: Very well.

BY DR. AMBROS:

Q Witness, to sum up very briefly before lunch I gave a statement that poison gas research was ordered by WAF and especially by Wa PRUFF 9; that there were 10 or 15 chemists or physicists approximately working there; that there were various institutes under WA at Spandau, Citadel, Rauchkammer, etc.

Do you know that a number of patents on poison gas processes bear the names of men of OKH, WA PRUFF 9?

A No, I am not a chemical engineer.

Q Nevertheless, perhaps it will occur to you, - perhaps you will remember, if I remind you of the patent for example, on stabilization of nitrogen lost, or the patent on mixed gas from the ethylene oxide or propylene oxide, - and I ask you, even if it is just on the outskirts, - you must have been called in when administrative problems arose from these chemical problems, as here for example. The question is becoming too long, but do you remember?

A Up to the date of December, 1942, that is to say, as long as I

was active in this field, I do not know anything about these matters.

Q Do you know that the process for the production of tabun, technically, was not worked out by the I.G. nor in Dyhernfurt but at Spa?

A After 1943 that may have been so but I, as Chief of the Montan, and as departmental chief of the Economic Department,-- I only dealt with these three Pruefstellen and Research stations which I mentioned before.

Q Nevertheless, Dr. Zeidelhack, even if one only makes contracts, one must be interested in the chemical subject matter, and I remember that you were not concerned purely with contractual matters, but thought about the subject matter too, and therefore, I ask you another question.

Do you know that sarin which was found by I. G. was produced only by the OKH at Spandau or Rauchkammer?

A I must explain here that the name Sarin came only to my attention after I was interrogated for the third time here.

Q Mr. Zeidelhack, this morning you made corrections in an affidavit to the effect that the I.G. did something which was later carried out in the Montan plants, especially in Dyhernfurt and Falkenhagen. That is to say, it was produced there. Now if I tell you that in Falkenhagen, only Sarin was to be produced, it was not actually done, when one draws up a contract dealing with the factory in Falkenhagen, you surely came across the word, "sarin".

A When I left in 1942, the I.G. had not yet taken over Falkenhagen. The attempts of Ministerialdirigent Dr. Schumman were of no avail. The budget as far as it was administered by the Montan, within the framework of the OKH, was cancelled. The special regulation to the effect that F was to control Falkenhagen from the financial and chemical point of view was being dissolved.

From paragraph 1 of my affidavit, and from the three affidavits, it becomes evidence that since January of 1943, I was relieved of all of my functions.

Q. Dr. Zeidelhack I have made this assumption only because this morning you corrected your affidavit and stated what I have just said, and therefore it was possible for me to ask you, since you mentioned Falkenhagen, this morning. May I ask, is it probably that it was not possible for you to produce sarin? May I remind you, therefore, of my assumption that you knew about sarin, and hence my question. Do you know that VA PRUFF 9 collaborated with universities and other laboratories in research work?

A No.

Q Thank you.

Dr. Zeidelhack, if everything that I have just said is correct, do you believe that the OKH would have allotted only three hundred thousand marks per year for war gas research and its development?

MR. SPRECHER: Objection.

THE PRESIDENT: Did you object to that?

MR SPRECHER: Yes.

THE PRESIDENT: What is your objection?

MR. SPRECHER: Well, I think it is incomprehensible in the first place. If everything the defendant Ambros has said so correct, then do you think so-and-so.

THE PRESIDENT: That objection is probably well taken. In other words, we can't have in mind just what the defendant means by everything he said. If he wants to formulate a question as to if certain things are true whether or not that amount of money would have been spent, or no more than that amount, that would be proper, I think, but in the form the question is propounded the objection is sustained.

BY MR. AMBROS:

Q A final question.

After we have discussed all this, do you still maintain that for this entire field, part of which you know, three hundred thousand marks was sufficient?

A I did not have to account for any other sum than those three hundred thousand marks during the first years when Falkenhagen was being planned and extended.

Q I'm sorry. Falkenhagen was later was it not, but thank you, Your Honors, I abbreviated my questions.

BY DR. GATHER (Defense Counsel for defendant Ambros):

Q One more question, witness.

Although you limit your knowledge to the sector for which you had to make the accounts, do you consider yourself justified in saying

that research and development in the field of chemical warfare agents was principally in the hands of the I.G. concern?

A According to the testimonies of the gentlemen from the I.G. with which I had official contact that is so.

Q Thank you.

Then, not from your own knowledge.

I have no further questions.

THE PRESIDENT: Any further cross examination desired?

Any redirect?

MR. SPRECHER: None, Your Honor.

THE PRESIDENT: The Marshal may escort the witness from the box. Call your next.

MR. SPRECHER: The prosecution calls as the next witness, Juergen von Klenck. There's only one affidavit in question. It is Exhibit 619, NI 10557. Document Book 35, English page 10, German page 20.

In view of Your Honor's request, which I'm afraid I've forgotten on numerous occasions, I can clearly state that I only want to have a very narrow examination concerning these points.

THE PRESIDENT: Very well.

JUERGEN VON KLENCK, a witness, took the stand and testified as follows:

BY THE PRESIDENT: Will the witness remain standing, raise his right hand, and say "I" and state his name.

A I, Dr. Juergen von Klenck.

Q And now repeat, after me:

"Swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing."

(The witness repeated the oath.)

The witness may be seated.

DIRECT EXAMINATION

BY MR. SPRECHER:

Q Will you state your full name for the record once again?

A Dr. Juergen E. von Klenck.

Q And what is your present address?

A Koenigstein, Adelheidstrasse 5.

Q And your present profession?

A I am a laboratory chemist.

Q And what was your address before the German collapse in 1945?

A Neustadt an der Haardt.

Q And what was your position just before 1945?

A Chemist for the I. G. Farben Industry in Ludwigshafen.

Q Dr. von Klenck, you speak English very fluently, do you not?

A Yes.

Q I would make the suggestion that during the direct examination, with your permission, the examination be in English, Your Honor.

THE PRESIDENT: Very well.

BY MR. SPEECHER:

Q You may take off your earphones then and later, during the cross examination, you can revert to the German.

Dr. von Klenck, you have before you a copy of Exhibit 619 which is our Document NI 10557?

A Yes, I've got it.

Q And have you discussed certain corrections or amplifications you desire to make in this affidavit with Mr. Stevens or Mr. Charnatz, either yesterday or this morning?

A I did this morning. They have been laid down.

Q Would you please point them out, giving the lines, if possible and the page numbers so that we can follow you?

A Yes, I can do so but I've only got a German copy here so I must read the text in German.

Q I've given you an English copy that was handed to me by Mr. Stevens. Will you continue now?

A I made the following changes in the second paragraph of the statement, after the sentence: "The field of chemical warfare agents

was turned over to this Ministry and Special Committee C was formed for this purpose." The following sentence is to be added: "The Special Committee C was a sub-committee of the main committee Powder and Explosives which was incorporated in the Bureau Schieber in the Ministry Speer."

May I add something which refers to the translation? In German I had said in this same sentence: Der Sonderausschuss C war eine untergruppe des Hauptausschusses Pulver in Sprengstoffe, der untergruppe Schieber in Ministerium Speer angegliedert war.

I think the word "incorporated" would better be changed to "attached".

Q Thank you. Proceed.

A The sentence: "The Special Committee C had to look after the distribution of production and to send reports on this to the Speer Ministry" which is in the third paragraph of the first page, second sentence, it is to be changed in "The Special Committee C had to take care of the distribution of production..." Oh, no. I beg your pardon. I made a mistake. Has to be changed into the sentence: "Within the field of fixed production tasks, the Special Committee C channeled the available raw materials to those end uses which were considered most important by the Armaments Ministry and by the army, and wrote reports about it to the Ministry Speer."

In the second paragraph of page 2, in the first sentence, the word "Fog", standing just before the word "N-Stuff" should be omitted.

I made an error in calling Professor Schumann, Professor Schuhmacher. This Schuhmacher has to be altered into Schumann.

In the last but one paragraph, first sentence....

Q Is that still on that page or.....

A That is page 2. Still page 2. There is a sentence which ends with the words "hiring and care of the workers in the Sarin plant".

I wanted to add the words "which was to be built."

"In speaking about matters of chemical warfare with acquaintances of mine, I heard that Goldschmidt was no partner of Lonal" which

refers to page 3, second item under "operating firm" so that those words and perhaps Goldschmidt could be omitted.

"I further learned that Cyanogen chloride has never been produced." This refers to the last but one item on the same page.

"The production of twenty-five tons per month was planned."

That's all.

Q That concluded your amplifications or corrections?

A To this statement, yes.

Q No further questions for the prosecution.

THE PRESIDENT: The defense may cross examine.

CROSS EXAMINATION

BY DR. GATHER (Defense Counsel for defendant Ambros):

Q Witness, in regard to your affidavit NI 10557, Exhibit 619, you have just given us a supplementation to the sentence, and I quote:

"Special Committee C had to look after the distribution of production."

May I ask you to re-read your new formulation in the German language?

A "Within the framework of the fixed production tasks, Special Committee C channeled the available raw materials into the end productions considered most important by the Armaments Ministry and the Army."

Q Thank you.

Witness, is it correct if, with regard to this formulation, I assume that the main task of the Special Committee C practically consisted of reducing the demands from Mun. 6 to a degree which could be fulfilled?

A Yes. That is correct according to the state of affairs.

Q Thank you.

Could you perhaps state examples for how this Special Committee C made such distributions and when it did?

A There was a great scarcity of chlorine. Because of this shortage of chlorine, we had to consider what production could be carried out and whether certain productions should not be stopped, in favor of other types.

Q I see. Since you mentioned chlorine, can you tell me when such distribution regarding chlorine was made?

A In 1944.

Q And why?

A For instance, the continuation of work on Direct Lost was given up for this reason, among others, because the chlorine was urgently needed for the production of calcium hypochloride, a protective agent.

Q Protective agent against what?

A Against Lost.

Q Against Lost?

A Yes.

Q If I can understand you correctly it was used as a protective agent against Lost which was feared from the enemy?

A Yes. I cannot give the exact time, but I believe that this entire incident was decisively influenced by news according to which the Allies sent Lost to Africa or Italy - I don't know which.

Q And then this shifting was made from war production to protective production?

A Yes. And it seemed especially important to have a sufficient quantity of decontamination agents available.

Q And who did that?

A Special Committee C, in collaboration with the OKH and the Armaments Ministry.

Q Thank you very much.

In your affidavit now supplemented, you are giving us a scheme how this Special Committee C was incorporated into the Armaments Ministry of Speer. In addition to this organizational formation, was there another military sector which was responsible for chemical warfare agents?

A From the military side, the Ordnance Office, Mun. 6, continued to be responsible for obtaining chemical warfare agents.

Q Who was the responsible officer who dealt with chemical warfare agents?

A The Ministerialrat Dr. Ehmann.

Q And who was the responsible officer for war gasses?

A Does this question refer to production or the use of the chemical warfare agents?

Q I am referring to the use.

A As far as I know, General Ochsner.

Q I see, Ochsner. Do you perhaps know whether the defendant Ambros ever came into contact with General Ochsner?

A As far as I know, never.

Q Did he correspond with him?

A I cannot remember his having done so.

Q According to your conviction is it surprising that the technician and the officer never met?

A Special Committee C actually handled something of the affairs of a technician, and military question such as the use of chemical warfare agents, did not concern the technical agents.

Q Thank you. I have no further questions.

THE PRESIDENT: Is there to be any further cross examination?

There being no requests, have you any redirect?

MR. SPRECHER: No redirect, Mr. President.

THE PRESIDENT: The witness is excused.

Call your next witness.

MR. SPRECHER: Mr. President, that concludes the witnesses for the next few days, in any event, and with your permission, Mr. Dubois would like to go on with the presentation of the documents concerning Count I.

THE PRESIDENT: Very well. Mr. Dubois, will you indicate what books we will need? I think there is some confusion among the members of the Tribunal.

MR. DUBOIS: I'm sorry. 42 and 43.

THE PRESIDENT: Let us check now and see where we are.

Will our messenger see that the books in Judge Morris' office are brought in, and Judge Hebert's? Judge Merrill and I have our books.

DR. GIERLICH: Mr. President, we were not prepared for the cross examination being finished so soon and we don't have our books here. Would it be possible to have a recess of a few minutes to get our document books?

THE PRESIDENT: Yes. How long do you suggest, Doctor? How long do you think it will take?

DR. GIERLICH: I think five minutes, your Honor.

THE PRESIDENT: Make it ten.

We'll rise for ten minutes.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

Mr. DuBOIS: I might say that in connection with these documents there are a few minor variations between the English and the German books and between the books and the exhibits, and several days ago after consulting with Dr. Boettcher I got together with Dr. Gierlichs and Dr. Henze, and I think we have straightened all those out. Also in connection with these documents which will be introduced concerning Section F, I would like to call attention to the fact that some of the exhibits are copies of documents which were held in the files of the U.S. Department of Justice, and others are copies of documents which have been introduced in Congressional hearings, and still others are exemplified copies of documents introduced in the United States District Court for the Southern District of New York in the case of Standard Oil Company of New Jersey against the Alien Property Custodian. In those cases or at least in most of those cases the Court in furnishing the exemplified copies attached both the English and the German versions, and it was more convenient to the document room to treat the whole thing as one exhibit, so that in some cases the German and the English books have both the German and English copies in it with the certificate of the court attached.

Now these documents relate to the way in which Farben used his cartel agreements in furtherance of the Nazi Program. In particular the proof will show, we believe, that Farben used the international cartel as an economic weapon for weakening other countries, particularly by crippling production and stifling scientific research. Activities of this type receive special emphasis in the United States, which was obviously the most highly-industrialized country, and the most outstanding example of the use of the cartel agreements for the purposes indicated in the United States is the relationships between Farben and the Standard Oil Company of New Jersey, particularly with respect to synthetic gasoline and rubber. The first sixty documents out of about eighty do-

cuments which we have in these two books concern Farben's use of its international agreements with Standard Oil in the interest of the German war effort, and show how Farben acting in close cooperation with the Nazi Government used these agreements as part of the program of making the Wehrmacht all-powerful vis-a-vis all other countries including the United States.

In 1929 shortly after Farben had perfected its processes for the manufacture of synthetic gasoline, a series of agreements were concluded between Farben and Standard Oil. These agreements in 1929 are the first two documents in the document book.

THE PRESIDENT: You are speaking of Book XXXII, I take it?

Mr. DuBOIS: XXXII. I am sorry. The Prosecution offers as its Exhibit 942 NI-10550 appearing on the first page of both the English and German document books. This was an agreement of 9 November 1929 between Farben and the Standard Oil Company of New Jersey, Standard I.G. and Standard Oil Company. The document, I might say, as I have already indicated to the defense, as introduced -- the exhibit has about 100 pages of schedules which we have omitted from both the English and the German books. We don't believe they are in any way relevant, but if the Defense feels that any portion of them are relevant after looking at them, they can, of course, request translation.

Just for the record I might say that this agreement was signed for Farben by Schmitz and von Knieriem. It doesn't appear in the English book.

The next document is NI-10430 which is the Division of Fields Agreement concluded at the same time between Farben and Standard. That appears on page 23 of the English and 26 of the German. Now this document again is signed by Schmitz and von Knieriem, but it has attached the four-party agreement. This was accidentally included in this book, and the end of the Division of Fields Agreement is page 27 of the English and 27 of the German. From then on the document is the same as the preceding document.

Now these two agreements in effect provided that throughout — I am sorry. This second agreement, NI-10430, we offer as Exhibit 943. These two agreements in effect provided that throughout the entire world, including the United States, Standard Oil recognized Farben's priority in the so-called chemical business and that except within Germany Farben recognized Standard Oil's priority in the so-called oil business; and it will be noted from these documents that provision was made for the exchange of experience.

I direct your attention particularly to Article 10 of NI-10550, the first document, which appears on page 17 of the English and page 19 of the German. Now pursuant to the Division of Fields Agreement which is the second document, new chemical processes discovered by Standard Oil were to be turned over to Farben unless they bore a close relation to the oil business, and Farben entered into a reciprocal obligation with respect to development relating to the oil or natural gas business.

The next document, NI-10432, is offered as Prosecution Exhibit 944. It is a letter from the defendants Schmitz and von Knieriem to the president of Standard Oil. This letter deals with what is described as a spirit of mutual helpfulness with which these parties entered into these agreements.

I direct particular attention to the second paragraph of the letter which appears on page 52 of the English and page 41 of the German.

In the next year in 1930 —

THE PRESIDENT: Pardon me. That is Exhibit 944?

Mr. DuBOIS: Yes. Mr. Sprecher points out that I may have misstated the state of what this document was. It is a letter from Teagle to Schmitz and von Knieriem. I may have said the reverse.

THE PRESIDENT: You had it just the reverse. We have it before us.

Mr. DuBOIS: I am sorry.

The next document is an agreement entered into between Farben and Standard in the following year 1930. It is NI-10433 which appears on

page 56 of the English and 45 of the German, and which is offered as Prosecution Exhibit 945. This is a so-called Jasco agreement. Its purpose is stated rather briefly, we believe, on page 58 of the English, page 46 of the German book under paragraph D that: "It is the desire and intention of the parties to develop and exploit their new chemical processes jointly on a basis of equality (50-50) and they, therefore, obligate themselves to proceed as follows:" and I call special attention to Article 2 appearing on page 62 of the English book, page 48 of the German, relating to the question of the development of new chemical processes and the requirement that each party acquaint the other with technical and commercial details relating thereto, and also making provision for investigating, testing and developing those processes by Jasco. Both parties to the agreements apparently realized that there was considerable overlapping between the oil and the chemical field and that borderline cases would constantly arise. The nature of these arrangements is well summarized in the next document, NI-10431, which we offer as Prosecution Exhibit 946 appearing at page 73 of the English and page 55 of the German. This was a letter from Howard of Standard Oil explaining the Division of Fields Agreements, and I call particular attention to the second paragraph on page 74 and also to the paragraph numbered 1 on page 74 of the English and 56 of the German, paragraph number 1 reads:

"The assumption is that the I.G. are going to stay out of the oil business proper and we are going to stay out of the chemical business insofar" —

THE PRESIDENT: Mr. DuBOIS, the confusion may be due to the fact that in my index book that document was indexed as page 73, and it is 74. Perhaps there may be an error in the —

Mr. DuBOIS: Well, you see, the 73, Your Honor, refers to really the exemplification by the court, but it is marked as the first page of

the document, and the actual first page of the letter is on page 74.

"The assumption is that the I.G. are going to stay out of the oil business proper and we are going to stay out of the chemical business insofar as that has no bearing on the oil business."

On page 75, the next page of the English, 57 of the German, under paragraph number 5:

"Subject to the above limitations, the general theory of the agreement is that chemical developments which are more closely related to the oil business than to the outside chemical business remain in control of Standard with I.G. participating in some manner to be agreed upon at the time with respect to each development, whereas developments which are more nearly akin to the outside chemical industry than to the then existing business of Standard pass to the control of I.G. with suitable participation by Standard."

I would also like to call attention to the last paragraph of this letter which appears on page 77 of the English and 58 of the German which reads:

"We have lived under the I.G. relationship for about one-half of the total term, considering the fact that the relationship actually began about two years before the contracts were actually executed. The chemical side of the arrangement has been satisfactory to both sides and profitable to us at least through this period. The arrangement is one which necessarily requires real good will on both sides."

This is Howard writing in July, 1936. It apparently was also agreed on both sides on the development of synthetic rubber processes field within the scope of the Jasco agreement and that new developments in that field should be turned over to Jasco.

The first document in this connection is NI-10434 appearing on page 81 of the English and page 62 of the German which is offered as Prosecution Exhibit 947. I call special attention to the paragraph be-

ginning at the bottom of page 82 of the English and 63 of the German, reading:

"The interest of the Standard Oil Company (New Jersey) in the Buna processes dates back to the original agreement of 1929 between I.G. and Jersey. Pursuant to this general agreement the parties undertook to cooperate in the production of certain new products from oil and gas raw materials, and a jointly owned American corporation was organized to administer the joint interests of the parties in these fields. The Buna synthetic rubber development (to the extent the product was made from oil and natural gas raw materials) was recognized by both parties as coming within the field of this corporation."

The next document, the affidavit by Oskar Loehr, the Prosecution is omitting and will not offer into evidence in view of our previous statement. It appears on page 88 of the English and 67 of the German.

Now the next four documents relate particularly to the understanding between the parties with respect to the scope of the Jasco Agreement. The first document, NI-10450, which appears on page 94 of the English and 78 of the German, which is offered as Prosecution Exhibit 948, is a letter from Hopkins to Standard Oil, to Russel of Standard, on 9 May 1940. It will be noted that this memorandum indicates that although general cooperation between Standard and Farben had gone on for several years, both sides apparently treating Buna as being within the Jasco field, the official bringing of Buna into Jasco was postponed for what is described as "political reasons". That appears at page 96 of the English and 79 of the German.

The next document which we offer is NI-11249 appearing on page 98 of the English and 82 of the German. It is a letter of November, 1941, from Hopkins of Standard Oil to Kenyon and Kenyon reciting the general history of the development of the Buna process in the United States. I call special attention to the third paragraph of the document.

THE PRESIDENT: That is Document No. ~~11249~~

Mr. DuBOIS: NI-11249.

THE PRESIDENT: Yes, and will be Exhibit 949, is that correct?

Mr. DuBOIS: 949. I am sorry.

THE PRESIDENT: That's all right.

Mr. DuBOIS: We offer next in evidence NI-10576 which appears at page 99 of the English, 83 of the German. We offer this as Prosecution Exhibit 950. It is a memorandum for the Humble Company by Howard by Standard Oil not only indicating that both Standard and Farben regarded synthetic rubber as falling within the scope of Jasco, but also showing the way in which this position was used to prevent other companies such as Humble from proceeding independently with respect to synthetic rubber. I call special attention in this connection to the third paragraph of the letter in which it is pointed out that: "Humble is not, in fact, free to proceed independently with the butyl rubber development under the Mutualization Contract. The reason Humble cannot proceed" —

THE PRESIDENT: Would you give the page number to the translator, please?

Mr. DuBOIS: Beginning at the bottom of 99 of the English and 83 of the German.

"Humble is not, in fact, free to proceed independently with the butyl rubber development under the Mutualization Contract. The reason Humble cannot proceed under this contract is because Humble, along with all other Mutual Companies, consented to, and has for eleven years worked under and adopted, all the burdens and benefits of the 1929 agreement between Jersey and I.G. By this agreement Jersey acquired, for the benefit of the Mutual Companies, among other things, an interest in the chemical developments of I.G. based upon oil and gas as raw materials, and in return assumed the obligation to give the I.G. an interest in its own developments in the same chemical field."

The next document we offer is NI-10565 appearing on page 104 of the English, page 90 of the German. This is a memorandum — we offer this as Prosecution Exhibit 951. This is a memorandum by Ringer of Farben concerning the arrangement which was entered into between Standard and Farben in order to prevent the patents in the Jasco field from being seized by enemy countries. This arrangement which will be referred to later was voided by the United States District Court for the Southern District of New York. At this time we call attention particularly to the following provisions of the memorandum, the first paragraph which appears on page 105 of the English and 90 of the German:

"In view of the situation created by the outbreak of the war, a new arrangement was entered into between Standard and ourselves by which we endeavored to accomplish that our patents in the Jasco field would be safe from seizure by the enemy countries, and that our patents in the U.S.A. would as a precautionary measure be placed in safety."

And again on page 106 of the English and page 91 of the German it states next to the last paragraph toward the end:

"In the Hague Memorandum it is provided that for the purpose of such adjustment, should occasion arise, a new division of the countries should follow, a formulation which was necessary in view of a possible entrance into the war by the U.S.A. and which formulation should avoid the existence of any contractual pecuniary claims on our part against Jasco."

At the very end: "It has been definitely established once more that Buna is being brought in only for the raw materials of the Jasco contract."

JUDGE HEBERT: Mr. DuBois, pardon me, who is Ringer who has signed this contract, this memorandum, rather?

Mr. DuBOIS: I am sorry. He is an official of Farben.

JUDGE HEBERT: An official of Farben?

Mr. DuBOIS: That is right.

Now, the evidence will indicate beyond a doubt that these arrangements, understandings, between the parties were meticulously observed by Standard and, as Howard indicated, Standard was impressed with the spirit of good will on the part of Farben. Farben, on the other hand, continually misled Standard as to what they could expect to get from Farben, and Farben's every move was made in consultation with the Nazi Government and was directed, as we shall see, to strengthen Germany's technical position and to slow down research in the U.S.

DR. SILCHER (Counsel for Defendant von Knieriem): I object to the last statement made by the Prosecution. In my opinion that is argumentative. I ask that the last statement be stricken from the record.

THE PRESIDENT: We have said before that we accept statements made by counsel when about to offer evidence as indicating what counsel think the evidence will establish and as information to the Court as to the theory upon which they are offering the evidence. This Tribunal has had much experience to be prejudiced or misled by any statement made by counsel which is not substantiated by evidence.

Counsel need not be disturbed about that. The statements will be considered as indicating what the Prosecution thinks it can establish. Whether it does establish will be determined by the competent evidence that is introduced to the Tribunal.

We will grant you the same courtesy and privilege when you offer your evidence to tell us in advance what you think it is going to establish, but we tell you now that if you wish us to consider it as evidence you better establish it--and that applies to the Prosecution as well. Thank you very much.

DR. SILCHER: In consideration of your statements, Mr.

President, I withdraw my motion that the passage be stricken.

THE PRESIDENT: You need not withdraw your statements. You were within your rights in expressing your views, and it is in the record; and we will let the record stand as it is, including the remarks of counsel for the Defense. It is perfectly satisfactory to us.

MR. DU BOIS: We next offer in evidence NI-10547, appearing on page 110 of the English, page 93 of the German. We offer this as Prosecution Exhibit 952. It is a letter from Farben to Chemnyco which indicates that as early as March 1934 Farben was instructing its subsidiary in New York, which was negotiating with Du Pont on nitrogen matters, not to indicate the interests of the Nazi Government. And in the last sentence or two of this letter it states: "Particularly it is to be recommended that in negotiations with Du Pont this point should be avoided, if possible. We hope that shortly there will be a clarification which will correspond to our attitude up to now in regard to questions of this kind and, if possible, we should therefore not allow foreign industry to gain the impression that in this respect we are not free to negotiate."

The next document we offer in evidence is NI-10469, appearing at page 111 of the English and 94 of the German, which is offered as Prosecution Exhibit 953. It is a letter from Howard of Standard Oil to Teagle of Standard Oil concerning an agreement between Howard and Ter Meer not to bring outside organizations into the synthetic rubber project. From this letter we see that in 1935 Ter Meer was urging against bringing other organizations into the development of synthetic rubber because, as indicated on page 113 of the English and 96 of the German, this would entail giving them the benefit of a large amount of technical

information which even more than the patent situation constitutes the proprietary value of the synthetic rubber project." Further reference will be made to this point later on.

The next document in the book has already been introduced as Prosecution Exhibit 523; it is NI-5931, appearing on page 115 of the English and page 97 of the German. It is a memorandum of June 1935 of a conference between Farben and the Army Ordnance and Air Ministry officials at Ludwigshafen. Special attention is called to the paragraph numbered 4, on page 120 of the English and 104 of the German, entitled "Ensuring Secrecy of Developmental Work." Quoting: "The I.G. is bound by contract to an extensive exchange of experience with Standard. This position seems untenable as far as developmental work which is being carried out for the Reich Air Ministry is concerned."

"Therefore, the Reich Air Ministry will soon conduct an extensive examination of applications for patents of the I.G."

"Furthermore, the I.G. will suggest the necessary security measures to the Reich Air Ministry under special consideration of the situation."

Now, at this point I would like to recall certain facts which were indicated in Exhibit 400, already introduced by the Prosecution. That was in book 26. This was the top secret record of the meeting of the Advisory Committee about questions of raw materials which you will recall was held in May of 1936 under the chairmanship of Goering, with the defendant Schmitz present.

You will recall that Goering stated that in the case of war Germany would not get one drop of oil from abroad,

and that with the thorough motorization of Army and Navy the whole problem of conducting a war was depended on oil. And Goering also indicated serious import reductions in case of war and stated that rubber was Germany's weakest point. During that discussion it will also be recalled Keppler indicated that technical improvements were expected, and expressed special hope for certain American processes, and the defendant Schmitz indicated that. In the light of this, special attention is called to the next document which the Prosecution offers as its Exhibit 954.

This is NI-10437 appearing on page 121 of the English and 106 of the German. This conference related to maintaining secrecy on the improvements of I.G. processes for the production of motor fuels and lubricants. The necessity was stressed for keeping Farben processes for the production of fuels and airplane gasoline secret, except to the extent already known by foreigners and authorized by the Wehrmacht.

Turning to page 122 of the English and page 108 of the German, under the heading "Iso-Octane - Maintaining Secrecy," I read: "It is possible for the foreigners, particularly the Americans, to produce Iso-Octane in considerable quantities, although on a different base (mineral oil). Under these circumstances, the maintaining of secrecy seems useless.

"With regard to Iso-Octane, too, it is desirable that the establishment of installations in Germany is kept secret. On the part of I.G. Farbenindustrie, it was mentioned in this connection that as soon as certain products were ready for delivery in larger quantities (as will be the case with ethylene lubricant as well as with

iso-Octane in the near future) the existence of production plants can hardly be kept secret. If it does become known it would, however, lead to unpleasant international reactions in view of I.G. Farbenindustrie's obligations to exchange know-how."

"The state of knowledge for the production of aviation gasoline, iso-octane and ethylene-lubricant on 1 July 1937 is being fixed in cooperation between the Reich Air Ministry and I.G. Farbenindustrie."

And then the last paragraph: "In consideration of its exchange of know-how agreements, I.G. Farbenindustrie is permitted to inform its partners in the agreements in a cautious way shortly before the start of large-scale production that it intends to start a certain production of iso-octane and ethylene-lubricant. The impression is, however, not to be conveyed that this is a matter of large-scale experiments. Under no circumstances may statements on capacity be made."

The next document which is offered as Prosecution Exhibit 955 is NI-10436 appearing on page 124 of the English and 110 of the German. It is a Farben memorandum by Hopkins of Standard Oil in July 1937 to the effect that the Hitler government probably does not look with favor to turning rubber over to foreign countries.

The next document which we offer as Prosecution Exhibit 956 is NI-10470 which is a letter from Fischer of Standard to Howard of Standard in August 1937, stating that Farben requests 10 tons of Butyl alcohol a month for experiments on Buna, indicating that Standard, in compliance with its obligations, was turning this over to Farben--

THE PRESIDENT: Mr. Du Bois, it is possible that some of counsel may have made some commitments to meet someone,

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or to use the telephone, or otherwise. Well, we have
had a recess, but I think we had better take our regular
recess now.

THE MARSHAL: The Tribunal will be in recess for 15
minutes.

(A recess was taken.)

AFTER RECESS

THE MARSHAL: The Tribunal is again in session.

DR. DUBOIS: The Prosecution offers next, as its exhibit 957 , NI-10438 appearing on Page 130 of the English, and Page 116 of the German. It is a letter dated October 1, 1937, from Hopkins of Standard Oil to Moss, one of Standard's foreign representatives, indicating that the Defendant ter Meer had said it was not advisable to place the responsibility for marketing Buna on one United States company. That statement begins at the bottom of Page 130 in the English and 116 of the German, reading:

"Dr. ter Meer, who is director of the company, was very emphatic in stating that he did not consider it advisable to place responsibility for marketing "Buna" in the hands of any one company in the United States. He was positive about this, and when alternatives were proposed he was very firm."

We will comment on this later, and on the different attitude of the defendant in '35, when he urged against bringing other companies in, and his attitude in October, '37, when he opposed bringing other companies in.

We next offer, as Prosecution Exhibit 958, NI 10447, which appears on Page 132 of the English and Page 118 of the German. It is a letter from the OKW to the Defendant Bueteufisch, enclosing a memorandum which had been prepared by the Defendant Bueteufisch and had been later on initialed by Thomas and signed by Goering.

On Page 133 of the English and 120 of the German -- I might say that the date, 30 January 1945, in the middle of that page, at least in the English book, it says "1945" ; it should be "40".

Reading from the memorandum of the Defendant Bueteufisch, at the second paragraph, after he refers to the agreement with Standard Oil and other companies:

"This exchange of know-how which is still being handled in the usual way by the neutral countries abroad even now and which is trans-

mitted, to us via Holland Italy firstly gives us an insight into the development work and production plans of the companies and/or their countries and at the same time informs us about the stand of technical development with regard to oil. In these know-how reports drawings and technical details about the most varied subjects, are passed to us. The contractual obligations mean that we too must make our experiences with regard to oil available abroad within the framework of the agreement. Up to now we have carried this exchange of know-how out in such a way that from our side we have only sent reports which seemed unobjectionable to us after consultation with the OKW and Reich Ministry of Economy and which contained only such technical data as concerned facts which are known or out-of-date according to the latest stand. In this way we have managed the handling of the agreements so that in general the Germany economy remained at an advantage.

"In order to maintain the contact with neutral countries abroad and/or the oil companies located there, we consider it expedient to continue this exchange of know-how in the form drawn up, retaining on our part the guiding principle that under no circumstances must any know-how of military or military-political importance get abroad in this way. In all cases of doubt contact with the Reich offices concerned must therefore be made."

It will be noted that this memorandum was initialed by Thomas, signed by Goering, under the note, "Director, Dr. Buetsch bears responsibility that nothing of importance to military or defense policy gets out."

The next offer is Prosecution Exhibit 959, Ni 10453, appearing on Page 135 of the English and 124 of the German. It is a letter from Howard of Standard to Russell of Standard, and we draw special attention to the last paragraph. This is in March, 1938:

"In view of the very genuine spirit of cooperation which Dr. ter Meer displayed, I am convinced that it is not only the right thing to do, but the best thing from every standpoint to pass on to them full information on the copolymer at this time. I do not believe we have anything to lose by this which is comparable with the possible benefit to all of our interests."

The next document, which is offered as Prosecution Exhibit 960, is NI 10455, appearing on page 136 of the English and 125 of the German, which is a letter in January 1942, from the defendant Ter Meer to the Defendant Krauch, with copies to the defendant Ambros, and to the Vermittlungesstelle-W.

I might say in connection with this document that what is marked in the English book as enclosures 2 and 3 have been included elsewhere in this document book under separate NI numbers, although they are repeated in the English book here, they are not contained in the German book at this point. They will appear in the German under the NI numbers 10459 and 10462.

Now there are several points in connection with this document which the Prosecution desires to draw special attention to.

In the first place, the second paragraph in the letter to the defendant Krauch from the defendant Ter Meer, page 136 of the English and 126 of the German, is especially significant. I will read it bearing in mind, as we have already seen, that the defendant Ter Meer had advised against bringing other organizations than Standard into the development of synthetic rubber in '35., and then completely changed his position in October, '37, when he, in fact, advised against it.

As will be seen from that second paragraph, a representative of Goodyear Tire and Rubber Company had come to see Farben representatives in the spring of '37 and pointed to certain development work, experimental work, which was being done by Goodyear, and, reading in part from that, Ter Meer says:

"In view of the experimental work done by his firm, Mr. Sebrell asked for an exclusive license on our Buna patents for U.S.A. This we declined at the time because we were of the opinion that the moment for doing work in a foreign country had not as yet come. Nevertheless, the Goodyear Company's information - evidently they had already found a supplier for Buradiene and Styrol at a later date - caused us to do some thinking and in the spring of 1938, this brought about the

discussion with Brigadier General Loeb as well as Dr. Mulert and Dr. Eckell."

That discussion in the spring of 1938 is contained in enclosures 1, to this letter, appearing on page 136 b of the English and 129 and 30 of the German. It is a memorandum of a conference held in March 1938 between Brigadier General Loeb of the Reich Economics Ministry Dr. Mulert, Dr. Eckell and the defendant Ter Meer, and reading from the last half of the second paragraph:

"Germany's going in for large-scale manufacture of Buna S, the realization abroad, especially in the USA, that Buna S is a suitable tire rubber, and, finally, the possibility, as it presented itself to the USA, to produce Buna S at prices approximately equal to the average price of natural rubber, created an extraordinarily great interest in America for the whole problem. Conferences which up to now had the sole object of easing the minds of American interested parties."

Now the rest of this I have checked for translation, and it should read in English,

"and to prevent as much as possible" instead of "and possibly to prevent".

"And to prevent as much as possible, an initiative on their own part within the frame of butadiene rubber were held with Standard, Goodrich, and Goodyear. We are under the impression that one cannot stem things in the USA for much longer without taking the risk of being faced all of a sudden by an unpleasant situation and lest we be unable to reap the full value of our work and our rights."

From the next paragraph:

"Our patents covering the agent for mixed polymerization (Buna S and N) are very strong and do not expire until 1950 and 1951, respectively. We have, furthermore, the tire patents for Butadiene rubber. Therefore, as long as Americans experiments - which as we know very well are being carefully carried out by such important firms as Goodyear and Dow - remain within the above mentioned patent sphere there is no danger."

At the bottom of page 136 b, page 131 of the German,

"It would nevertheless be conceivable that because of the extraordinarily great importance of the rubber problem for the USA and because tendencies for restoring military power are very strong there too, considering the decrease in unemployment, etc. a bill for a corresponding law might be submitted to Washington. We, therefore, treat the license requests of the American firms in a dilatory way so not to push them into taking unpleasant measures."

On the third paragraph on page 136c, same page 133 of the German:
"Pursuant to the above the possibility was discussed in detail, through strict reserve on our part to put the brakes on for developments in the USA, especially with a view to preserving secrecy in regard to other countries."

At the end of that paragraph:

"In view of such conditions an attempt to hold back the development of things in USA by affecting secretiveness would mean nothing else but indulgence in illusions."

Turning back to the letter which enclosed this, page 136 a of the English and 128 of the German, you will see that Ter Meer, in his letter to Krauch, the paragraph before the last says:

"In conclusion I should like to state that except for the license agreement concluded with our ally, Italy, processes and experiences on the production of Butadiene and the manufacture of Buna S and N were never made available abroad."

We next offer, as Prosecution Exhibit 961, NI 10454, which is an extract from a meeting of Standard's Executive Committee, 4 April 1931, stating that the failure to receive the rubber processes from Germany was due to military expediency.

We next offer, as Prosecution Exhibit 962, NI 10477, which appears on page 143 of the English, page 140 of the German, and is a letter from Howard of Standard to the Standard Executive Committee of 5 April 1938, on the attitude of other rubber companies.

As Prosecution Exhibit 963, we offer NI 10456, which is a letter from the defendant Ter Meer, to Howard of Standard, 9 April 1938, concerning negotiations with the German authorities on the divulging of the Buna process.

You will note in the second paragraph, which is on page 145 of the English, and 142 of the German, Ter Meer writes in May 1938:

"In accordance with our arrangements in Berlin, I have meanwhile taken up negotiations with the competent authorities in order to obtain the necessary freedom of action in USA with regard to rubber-like products. As anticipated, those negotiations have proved to be rather difficult, and the respective discussions are expected to take several months before the desired result is obtained."

This was about two months after the conference we just referred to.

As Prosecution Exhibit 964, we offer NI 10457, appearing on page 147 of the English and 144 of the German. It is a letter from Howard of Standard to Bedford of Standard in April 1938 concerning negotiations with other rubber companies.

On page 148 of the English and 145 of the German, I read:

"The think that is really holding us up, however, is not the lack of a plan either from Goodyear or ourselves, but the inability of our partners to obtain permission of their government to proceed with the developement in the United States. Until they obtain this permission it is not possible for us to make any commitment at all. Our primary objective in our talk with the Goodyear and Dow people was to convince them of our good faith and our willingness to cooperate with them, in order to avoid having them proceed prematurely with an independent development which would make it impossible to bring them into any general plan later."

As Prosecution Exhibit 965, we offer NI 10458, appearing on page 151 of the English and 148 of the German.

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It is a letter from Howard of Standard to Ter Meer in April 1938,
whishing him success in government negotiations, and stating that
Standard cannot delay the development in the US beyond the fall of
1938.

As Prosecution Exhibit 966, we offer NI 10505, appearing on Page 153 of the English and Page 150 of the German. It is a letter from Howard of Standard to Bedford of Standard, purporting to quote a letter from ter Meer. It says that negotiations with the government have been difficult and will take several months. Reading from the second paragraph of that letter:

"Until we have this permission, however, there is absolutely nothing we can do, and we must be especially careful not to make any move, even on a purely informal personal or friendly basis, without the consent of our friends. We know some of the difficulties they have, both from business complications and inter-relations with the rubber and chemical trades in the United States, and from a national standpoint in Germany, but we do not know the whole situation - and since under the agreement they have full control over the exploitation of this process, the only thing we can do is to continue to press for authority to act, but in the meantime loyally preserve the restrictions they have put on us."

The next document has already been introduced as Prosecution Exhibit 880. That's NI 10622. It is a letter from Chemnyco to ter Meer, in which it is indicated that "it is considered expedient to - conduct the negotiations in such a way that we would continue to observe and become acquainted with Dow's and Goodyear's experiments."

The next offer, as Prosecution Exhibit 967, NI 10459. This was Enclosure 2 to the letter from ter Meer to Krauch which was previously introduced, the letter from ter Meer to Krauch being NI 10455. It is a letter of the Ministry of Economics in October 1938, consenting to the utilization of the Buna patents, processes and experience abroad. You will note, however, that the last paragraph indicates that the consent of the Reich Ministry of Economics must be obtained before a final settlement is made.

As Prosecution Exhibit 968, we offer NI 10460, which is extracts from Standard's Executive Committee Memorandum of October, 1938. It

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As Prosecution Exhibit 968, we offer NI 10460, which is extracts from Standard's Executive Committee Memorandum of October, 1938. It

appears on Page 158 of the English, Page 158 of the English; Page 155 of the German, indicating that the German government will now permit discussions on the marketing of Buna.

As Prosecution Exhibit 969, we offer extracts from Standard's Executive Committee memorandum of 28 November 1938, in which the defendant ter Meer reviews the history of Buna production in Germany.

As Prosecution Exhibit 970, we offer NI 10462, which appears on Page 165 of the English and 161 of the German. It is a memorandum of 24 February 1939 on negotiations on Buna in the United States. This was Enclosure 3 to the letter from ter Meer to Krauch, which was NI 10455.

As Prosecution Exhibit 971, we offer NI 10463, appearing on Page 167 of the English and 164 of the German. It is a letter to Farben from the OKW of April, 1939, enclosing a letter of 5 April 1939 from the OKW to Bueckelisch, stressing the necessity for prior examination and approval of information sent abroad.

As Prosecution Exhibit 972, we offer NI 10464, which appears on Page 169 of the English and 166 of the German. It is a letter from Vermittlungstelle-W to the Reich Air Ministry, with a copy to the OKW, July 1939, on a trip of I. G.-chemists to the U. S. A. for the purpose of obtaining information in the field of hydrogenation of Iso-Butylene. We especially call attention to the last two paragraphs.

As Prosecution Exhibit 973, I offer NI 10465, which appears at Page 171 of the English and 169 of the German. The English text actually starts on Page 178 and the German on 169. This is a letter from Farben to the Wehrwirtschaftsstab OKW of 16 September 1939, requesting permission to transfer patents to Standard IG and reciting the advantages which would accrue to Farben from the fact that the patents would be protected against seizure by the governments at war with Germany. I call special attention on Page 179 of the English and 170 of the German, the middle of the paragraph:

"By this transfer, to which Standard - as stated above - has a

legal claim; it would be prevented that the foreign patents involved, which until now are still registered in the name of I. G., can be seized by the governments at war with Germany in the countries involved."

And on Page 182 of the English, 172 of the German:

"We are keenly interested to have the agreement brought to a final conclusion despite the present complications, since the agreement offers substantial advantages to the German economy."

And a little further down:

"It is true, we believe it unlikely that the foreign parties to the agreement will agree to the present conditions, since the advantages granted to I. G. are based on the promise that I. G. participates actively in the development and improvement of the new processes. In the event, however, that it should develop unexpectedly during the conference contemplated for the next few days in the Hague with the representative of Standard Oil concerning the patent transfer, that the foreign companies are ready to conclude the agreement now, we believe it appropriate that we should avoid on our part any delays in the final arrangements as much as feasible."

As Prosecution Exhibit 974, we offer NI 10466, appearing on Page 184 of the English and Page 182 of the German. The English text actually starts on Page 190 and the German text on 182. It is a letter from Ringer of Farben to the Defendant von Knieriem, 28 April 1939, referring to the pending Hague conference with Howald, and we would indicate on Page 191 of the English and 183 of the German, paragraph #2:

"Dr. ter Meer thinks it is necessary to point out specifically that there will be no exchange of experience with respect to Buna."

As Prosecution Exhibit 975, we offer NI 10467. It is a letter from the 'ehrwirtschaftsstab OK' to Farben, 2 October 1939, attention: the Defendant Buete-fisch, giving permission to transfer to Standard the foreign patents in the field of Jesco and pointing out the necessity for keeping secret, data which was designated as such by the Wehrmacht.

That concludes the documents in Document Book 42.

Turning to Document Book 43:

As Prosecution Exhibit 976, we offer NI 10468, appearing on the first page of both document books. It is a letter from the Defendant ter Meer and Loehr, 5 October 1939, to the Reich Ministry of Economics. Turning to Page 6 of the English and Page 3 of the German, quoting:

"The development of the political situation does not permit the conducting of the detailed negotiations envisaged for the fall, and in particular it cannot at present be considered to give technical experience concerning Buna to an American company."

Down a little further:

"In the U.S.A. our Buna patents are greatly endangered by infringers without our having the possibility of proceeding against it. In view of this and also of possible political complications with the U.S.A., we consider it right to transfer the patents to an American holder who is in friendly relations with us and of whom we know that in the future as well he will cooperate with us on a friendly basis."

The last paragraph:

"We would be grateful to you for confirmation of the fact that there are no objections to the intended transfer of the patents (without revelation of any technical experience whatsoever)."

As Prosecution Exhibit 977, we offer NI 10439, which is a letter from Defendants ter Meer and Buetefisch of 10 June 1939 to the Wehrwirtschaftsstab, which follows generally the contents of the previous letter to the Ministry of Economics.

As Prosecution Exhibit 978, we offer NI 10440, appearing on Page 17 of both document books, the English version starting on Page 22, the German on Page 19. This is a letter from OK to Iarben of 11 October 1939, approving the transfer of the Buna patents.

As Prosecution Exhibit 979, we offer NI 10441, appearing on Page 23 of both document books. It is a letter from the Ministry of

Economics to Farben approving the transfer of Buna patents.

As Prosecution Exhibit 980, we offer NI 10442, which is the memorandum by Ringer of Farben from 8 October 1939 on his conference with Howard in the Hague in September 1939, copies going to the Defendants Krauch, ter Meer, von Knieriem, and Buetefisch, as indicated at the end. Reading portions of this: first, Page 27 of the English and 25 of the German:

"I informed Howard that I. G., of course, adhered to the agreement reached at an earlier date that Buna should be dealt with within the framework of Jasco."

Page 28 of the English and 26 of the German:

"Howard took up the proposal for dealing with Buna and said that at the present time it might be best to re-adjust Jasco quite generally on a similar basis."

A little further down:

"Nevertheless, we told him his proposal would be a useful basis for negotiations, if it were clearly understood between us that the final financial arrangements for both parties should be the same as those which would have been obtained under the existing Jasco Agreement had that agreement been normally performed, and if it could be stipulated in a form that is not open to challenge; that, when the time comes, the agreement to be reached now could be amended even retroactively with respect to its financial results."

A little further down in the same paragraph:

"Howard first thought this method feasible but upon closer consideration reached the opinion that the purpose of these readjustments could be seen through too easily. The proposal was then drawn up in such a manner that a revision of the division of countries should take place if the financial results for either party should not be adequate."

On Page 29 of the English and 28 of the German, the paragraph numbered "f": we would be able to transmit know-how for the production

of Buna to the United States. He himself considered this unlikely, since in the event of a war the United States would be dependent upon the importation of crude rubber. We have promised Howard to answer this inquiry. Howard himself anticipates a refusal to transmit technical experience. In any event, he has not conditioned the readjustment of Jasco upon our furnishing experiences for Buna."

As Prosecution Exhibit 981, we offer NI-10443, appearing on Page 31 of the English, page 32 of the German. We call special attention to the Paragraph, page 34 of the English and 35 of the German, beginning with "Pursuant to these arrangements, etc." which refers to the transfer of certain patents.

As Prosecution Exhibit 982, we offer NI-10444, which is a letter from Howard of Standard to Minton of Standard of October, 1939, stating that:

"We have received assignments to Jasco of all patent rights save those relating to the Buna process. The I.G. indicates that they have not yet to secure the consent of their government."

As Prosecution Exhibit 983, we offer NI-10445, appearing on Page 48 of the English and 47 of the German. It is a memorandum by Hopkins of Standard on 19 October 1939. This exhibit appeared as one of the exhibits in the Truman Committee hearings on Rubber and, as indicated on Page 49 of the English and 47 of the German:

"The I.G. has not furnished anyone technical information, although Mr. Murphree walked through one of the plants several years ago."

As Prosecution Exhibit 984, we offer NI-10472. It's a letter from Howard of Standard to Minton of Standard of 25 October 1939 on conversations with the Joint Army and Navy Munitions Board, and we call special attention to the paragraph at the top of Page 52 of the English, Page 49 of the German:

"We have not complete technical information on the Buna-S manufacture in this country, and cannot obtain any more information from Germany. We have complete control of the patents, however; and with the patents and the information we already have, it would be possible to produce the Buna-S products in the U.S. A minimum of two years would be required, however, to complete and get into operation the first large plant."

As Prosecution Exhibit 985, we offer NI-10473 - two letters from Howard of Standard to Thomas of the Firestone Tire and Rubber Company, indicating that Farben has Withdrawn completely from Buna manufacturing in the United States and asking him to keep quiet about the matter.

As Prosecution Exhibit 986, we offer NI-10446, which appears on Page 56 of the English, 54 of the German. It is a cable from Howard of Standard to Ter Meer and Ringer in November 1939, on Buna discussions in the United States with Dupon.

As Prosecution Exhibit 987, we offer NI-10474, appearing on Page 57 of the English, 55 of the German. It is a cable from Howard of Standard to Ter Meer and Ringer in December 1939, on cooperation with the U.S. Rubber Company.

As Prosecution Exhibit 988, we offer NI-10448, appearing on Page 63 of the English and 61 of the German. It is a memorandum from Hopkins of Standard to Howard of Standard in April 1940. In the middle of Page 64 of the English, 62 of the German, Hopkins suggests to Howard, the last paragraph:

"try to get information as to just which emulsifying agents and promoters the I.G. uses in making Buna."

As Prosecution Exhibit 989, we offer Document NI-10449, appearing on Page 65 of the English and 63 of the German. It is a letter from Hopkins of Standard to Currie of Standard in April 1940, saying that Farben has assigned only about half of the Buna patents.

As Prosecution Exhibit 990, we offer NI-10475, a cable from Howard to ter Meer and Ringer in June 1940, asking them to use every effort to complete the list of Buna patents and forward the assignment.

As Prosecution Exhibit 991, we offer NI-10476, appearing at Page 67 of the English and 65 of the German. It is a cable from Howard of Standard to ter Meer of Farben, thanking him for the Buna assignments.

As Prosecution Exhibit 992, we offer NI-10451; it is a letter from

Farben to the OKW on the transfer of the patents to Standard. It appears on Page 68 of the English and page 66 of the German.

As Prosecution Exhibit 993, we offer NI-10452, appearing on Page 77 of the English and 75 of the German. This is the Hague memorandum concerning the readjustment of Jasco.

As Prosecution Exhibit 994, we offer NI-10551. This is a letter in June 1944, from the Defendant von Knieriem to the Defendants Schmitz Ambros, Bueteifisch, and Schneider, as well as others, enclosing a memorandum which is apparently a study by Farben's scientists. In this letter the Defendant von Knieriem states, the last paragraph:

"I think we all agree that we will only make use of our reply to the authorities if we are approached about Haslam's article. It is in any case quite good, however, that we ourselves will get a view of conditions through this."

Now, this memorandum, which is dated - it begins on Page 88 of the English, Page 81 of the German, - dated in June 1944, comments on Professor Haslam's article in the Petroleum Times. The first paragraph refers to the fact that an article had been published in the Petroleum Times by Haslam wherein the President of Standard Oil apparently defends himself against attacks leveled against Standard Oil as a result of cooperation between Farben, and Standard Oil and this purports to be an answer by Farben to that article. I will take the liberty of reading a few paragraphs of this memorandum. The third paragraph, Page 88 of the English, 82 of the German:

"The Haslam article now declares that the Americans received processes from I.G. which were vitally important for the conduct of war, and every reader of the article will ask if this is true, and if so, if I.G. on its side has acquired information from the Americans which is equally vital for the conduct of war. The following explanations deal particularly with the latter question."

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Then they go into various products. Summarizing the Iso-octane, the last paragraph on page 90 of the English, Page 86 of the German:

"In summary, it can thus be said, concerning the production of aviation fuels, that we had to use methods which differed in principle from those of the Americans. The Americans have crude oil at their disposal and naturally rely on the products that are created in the processing of crude oil. In Germany, we start out on a coal basis and from there proceed to utilize the hydrogenation of coal for the production of aviation fuel. As mentioned above, however, specialized information was not turned over to the Americans. Therefore, in contrast to Professor Haslam's assertions, hydrogenation proper was used in Germany, though not in America, for the production of aviation fuels. Beyond that it must be noted that particularly in the case of the production of aviation gasoline on an Iso-octane basis, hardly anything was given to the Americans, while we gained a lot."

Turning to Page 93 in the English and 90 in the German, with the heading "Buna":

"Conditions in the Buna field are such that we never gave technical information to the Americans, nor did technical cooperation in the Buna field take place."

The next paragraph:

"A further fact must be taken into account, which for obvious reasons did not appear in Haslam's article. As a consequence of our contracts with the Americans, we received from them, above and beyond the agreement, many very valuable contributions for the synthesis and improvement of motor fuels and lubricating oils, which just now during the war, are most useful to us, and we also received other advantages from them."

"Primarily the following may be mentioned:

"Above all, improvement of fuels through the addition of lead-to-

traethyl and the manufacture of this product. It need not be especially mentioned that without lead-tetraethyl the present method of warfare would be unthinkable. The fact that since the beginning of the war we could produce lead-tetraethyl is entirely due to the circumstances that shortly before the Americans had presented us with the Production plans complete with experimental knowledge. Thus the difficult work of development (one need only recall the poisonous property of lead-tetraethyl, which caused many deaths in the USA) was spared us, since we could take up the manufacture of this product together with all the experience that the Americans had gathered over long years."

And on Page 94 of the English and 92 of the German, the paragraph numbered 3: "In the field of lubricating oils as well, Germany, through the contract with America, learned of experiences that are extraordinarily important for present-day warfare."

And toward the end: "Altogether we were quite thoroughly informed on a large scale of the behavior of lubricating oils in auto-and aircraft motors, and thereby it became possible for us to develop our synthetic lubricating materials immediately according to practical standards, so that at the beginning of the war we were technically prepared. In this connection we obtained not only the experiences of Standard but, through Standard, the experiences of General Motors and other large American motor companies as well."

On the last page, Page 95 of the English and 93 of the German: "As a further remarkable example of the advantageous effect for us of the contract between I.G. and Standard Oil, the following should be mentioned: In the years 1934- and - 35 our government had the greatest interest in gathering from abroad a stock of especially valuable mineral oil products (In particular, aviation gasoline and aviation lubricating oil) and holding it in reserve to an amount approximately equal to 20 million dollars at market value. The German government asked I.G. if it were not possible, on the basis of its friendly relations with Standard Oil, to buy amounts as I.G.--actually, however, as trustee of the German Government.

"The fact that we actually succeeded, by means of the most difficult negotiations, in buying the quantity desired by our government from the American Standard Oil Company and the Dutch-English Royal Dutch Shell Group, and in transporting it to Germany, was made possible only through the aid of the Standard Oil Company."

As Prosecution Exhibit 995 we offer NI-10553, appearing on Page 97 of the English and 95 of the German, a memorandum of May 1940 by ter Meer on Loehr on their meetings in Basel in May 1940. Turning

to Page 105 of the English and 97 of the German, "Howard expressed the supposition that the I.G. used emulsifiers in its production which were outside of the protection of the Naugatuck Patent, and requested that Jasco be informed with what emulsifiers they worked, in order that Jasco might eliminate the objections of the American interests as regards the Naugatuck Patent. The I.G. declares that in the production of Perbunan it employs neither fatty nor any other soap falling under Naugatuck Patent. It was, however, not able to inform Jasco what emulsifiers are used. The designation of the emulsifiers used by I.G. amounted to the transmittal of know-how which it was not in a position to give."

And then later on in the same page in the English and 98 of the German: "Howard requested that it be investigated whether it would not be possible to let Jasco have a set of drawings for the process apparatus (process designs) which would be paid for, whereby this payment would be in the nature of a usual commission for planning work. The I.G. replied here to that the granting of the desired drawings would automatically entail the divulging of the processes themselves, and this would amount to the giving of the know-how of the manufacture of Perbunan and Buna-A. In definite form it is further stated that the I.G., under the present conditions, is absolutely not able to do so, and that there is no use in discussing Howard's proposal with the German authorities."

As Prosecution Exhibit 996-- The next two documents are documents introduced in Truman Committee hearings, showing the critical rubber situation in the U.S.A in the year, particularly beginning in '42. The first document relates to '42 and the second one to an earlier period.

As Prosecution Exhibit 996, we offer NI-10620 which was a chart prepared for the war Production Board by Leon Henderson, showing the rubber situation in the U.S., including the whole United Nations

rubber outlook at that time. I might point out that it should be a minus quantity in front of certain of these items was omitted on the first page of the document, 110 of the English and 108 in the German. Under the heading "Result-Supply Minus Demand" that should be minus 415,000, minus 746,000, minus 582,000. And the last item, "Net Stocks," the last two items should be minus 468,000 and minus 1,050,000. And on the next page the corresponding figures to those I just read should also have minus quantities before them. And on the third page of this document all of the figures on the supply-minus-demand have minus quantities before them.

As Prosecution Exhibit 997 we offer NI-10621, which was a memorandum to the President of the United States in September 1940 concerning the synthetic rubber situation and the general situation in the U.S. at that time. And as Prosecution Exhibit 998 we offer a letter from Howard of Standard to the Reconstruction Finance Corporation, also reviewing the rubber situation in the U.S. at that time.

Now, the next fifteen documents relate to Farben's use of its international agreements to restrict the production of magnesium in the United States, and in particular to prevent its export from the United States to other countries, during the period of time when Farben was building secret magnesium plants for the Luftwaffe and was secretly stockpiling magnesium for use in case of war.

The first few documents contain the text of agreements which are relevant in only certain respects, and we regret that we must burden the Court and the Defense Counsel with a considerable amount of material which in one sense is not particularly relevant. However, we have found it impracticable to take out of contents context portions of the agreement in which we are especially interested without possibly giving a meaning to these portions which would not otherwise be gained if they were read in the light of the whole agreement.

However, as we go along we will mention specifically that aspect of the agreement in which we are especially interested, and point to those portions which we believe are particularly irrelevant.

As Prosecution Exhibit 999 we offer NI-10968, which appears on Page 126 of the English and 121 of the German. This is an agreement in October 1931 between Farben and the Aluminum Company of America, providing, among other things, the formation of the Magnesium Development Corporation, to be jointly controlled, with the assignment to such corporation of patents relating to the production and fabrication of magnesium, providing that neither of the parties would engage in the production of magnesium in the United States without offering the other parties equal participation.

Now, in this document we call especial attention to Paragraph "E" on Page 9 of the original document, to the fifth paragraph on Page 12 of the original document, and to the tenth paragraph on Page 18 of the original document. There were also certain index schedules attached to this which were unfortunately processed, which I do not think are in any way relevant.

As Prosecution Exhibit 1000 we offer NI-10967, appearing on Page 127 of the English and 155 of the German, an agreement in February 1933 between Farben and the Aluminum Company of America, relating to the division of the stock in the American Magnesium Corporation, giving Farben the right to subscribe to fifty percent, the parties agreeing that neither is to fabricate magnesium in the U.S. independently of the American Magnesium Company.

We call especially attention to the ninth paragraph on Page 133 of the English and 161 of the German.

As Prosecution Exhibit 1001 we offer NI-10966, appearing on Page 139 of the English and 167 of the German, an agreement of January 1934 between the magnesium Development Corporation, the Dow Chemical Company, and American Magnesium Company, by the terms of which Dow

Magnesium Corporation cross-licensed each other under the patents relating to the fabrications of magnesium.

As Prosecution Exhibit 1002 we offer NI-11203 is extracts appearing on Page 152 of the English and 178 of the German, extracts from a complaint filed in the district Court of the United States for the Southern District of New York in which a consent decree was issued in the cases of the United States of America vs the Aluminum Company of America, which summarizes pretty well the pertinent divisions of the various contracts between Farben and the American company.

Now, as Prosecution Exhibit 1003 we offer NI-10965, appearing on Page 159 of the English and 181 of the German, an agreement between Farben and Dow Chemical Company, of September 1934, whereby Farben agreed to purchase certain quantities of magnesium from Dow. We call special attention to Page 163 of the English and 183 of the German. Reading Paragraph IV: "Dow agrees to confine its sales in Europe solely to the I.G., with the exception that it reserves the right to sell the British Maxium, or its successors, not more than 300,000 pounds per annum at a price not lower than the price quoted to I.G. for the same quantities. Dow further promises to use its best efforts to keep British Maxium, or its successors, from reselling magnesium in ingot form, and will try to limit its purchase to its own use in fabricating."

And in the next series of documents, the next six documents--

DR. THEOBALD: (Counsel for the Defendant Buerger): Your Honors, I should like to come back to the document which has just been offered, Exhibit 1002, which is Document 11203. The Prosecutor calls it a complaint of the United States vs the Aluminum Company of America. I am unfortunately not sufficiently acquainted with the American judicial language to make a picture for myself what the exact proceedings are or what is meant by this. We have an original indictment here of the United States vs ALCOA and DOW of the year 1940.

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We know nothing about these proceedings themselves and about the outcome, and we have submitted by the Prosecution a document which is obviously from 1942. It says "Complaints" on it; "complaint filed on the 15th of April, decree entered the 15th of April."

I should like to ask the Prosecutor to explain to me what this document is, and to explain to me the details of it.

MR. DUPOIS: The document is a complaint which was filed in the District Court of the United States: The Case of the United States of America vs the Aluminum Company of America, on the basis of which a consent decree was issued. This document, or this extract, is obviously only offered for whatever weight the Court wants to give it with respect to certain facts that are recited therein relating to certain contracts in which Farben was involved. Obviously, it is not in any way conclusive of the facts recited, and it is not offered as such. It is merely offered as some evidence of the facts indicated most of which I do not believe will be very much disputed, but nevertheless it is only offered for whatever weight the Tribunal may feel should be given to it, in the light of the fact that it is a complaint on the basis of which a consent decree was issued.

THE PRESIDENT: I would say to Counsel that as we understand this document it recites certain facts with reference to certain agreements. It may not be entitled to much weight--and certainly would not be entitled to any if the original agreement should subsequently be produced. It is only a decree of a court, as we understand it, that finds certain facts with reference to certain contractual relationships between certain parties, in this instance Farben and the Aluminum Company of America. We would not be bound by that if, subsequently, in the course of this trial, these agreements do appear and if the documents are not made available to the Tribunal the circumstances under which these facts appear to the Tribunal will be considered in attaching whatever weight, if any, the Tribunal concludes they are entitled to receive.

We can appreciate the somewhat awkward and unusual situation in which Counsel for the Defense may find himself because of these documents that pertain to the operations of courts in other countries;

and if we can be of any help to you in further advising you with reference to those matters it certainly is not impropriety in your requesting the Prosecution, or the Tribunal, for that matter, to give you whatever interpretation we can of these documents.

DR. THEOBALD: Thank you, Your Honor. In order to orient myself, I would like to ask you: These points which are mentioned here, are reasons for a decision, or are they parts of a complaint of one of the parties? I cannot see this from the document, as I do not know American judicial matters well enough.

THE PRESIDENT: What I understand from the title of the document is that it is a complaint made by the Government of the United States, or some prosecuting authority of the Government of the United States, against this defendant, in which case there was actually no contest and the defendant conceded the facts and consented that a court might find the facts to be true and enter a decree. Now, if I am mistaken in that, the Prosecutor can correct me. I am basing that only on the title of the document and without any very thorough consideration, because we have not had an opportunity yet to read them.

MR. DUBOIS: That is right: As a matter of fact, I will make arrangements to supply Defense Counsel with the full document, if he wants it. I have it in English—not in German.

DR. THEOBALD: Thank you.

MR. DUBOIS: Would you like me to go on, Your Honors? Or do you want to stop me?

THE PRESIDENT: You are making such good progress that I hesitate to disturb you. Would you venture an opinion as to how long it would take you to complete the presentation of the documents in this book?

MR. DUBOIS: I think I could finish this by five o'clock.

THE PRESIDENT: We think that is probably not going to work out with some of our commitments, and I think we had better suspend until Tuesday.

Have you anything to say, Mr. Prosecutor, before we recess?

MR. SPRECHER: On the next day upon which the Tribunal is in session we plan to finish the materials which Mr. Dubois has been presenting, and then to go forward with the presentation of documents under Section H of Count 1, which are found in Document Books 50 and 51.

We do not anticipate that the presentation of those document books should take much longer than a half day. Therefore, the defendants should probably want to bring in the further documents books: 52, 53, and 54, which bear on the first part of Count II of the Indictment. In that connection, I think we might point out that the document books from 52 through 64 have already been delivered in both the English and the German, and that all those document books do bear on Count 2. During the course of the next week we should be able to either exhaust them or fairly well exhaust them during the course of our hearings, provided we have a five-day week.

THE PRESIDENT: Well, in that connection I think we all understand there will be no court in this room on Monday. We shall not be in session Monday. There is the possibility that we can make up the lost day next Saturday, but we will confer with you about that early in the week.

Will that be soon enough for you to make your plans, Mr. Prosecutor?

MR. SPRECHER: Yes, certainly.

THE PRESIDENT: I remind you also that we have a little matter with reference to the admissibility of a document that is set for Tuesday morning. The Tribunal is hopeful that that will not take very long. We do not care for any extended arguments, but we will be very happy to have a brief statement of the views of counsel that are interested in that subject, and particularly references to any

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precedents in the proceedings of the other Tribunals. Anything further?

The Tribunal will now rise until Tuesday morning at nine-thirty.

THE MARSHAL: The Tribunal will recess until nine-thirty Tuesday morning.

(The Tribunal adjourned until 21 October 1947 at 0930 hours.)

Official Transcript of the American Military Tribunal in the
Matter of the United States of America; against Carl Krauch, et
al, defendants, sitting at Nurnberg, Germansy, on 21 October
1947, 0930, Justice Shake, presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats.
The Honorable, the Judges of Military Tribunal 6.

Military Tribunal 6 is now in session. God save the United States
of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Are the defendants present, Mr. Marshal?

THE MARSHAL: May it please your Honor, all defendants are present
save the defendants Wurster and Hoerlein, absent due to illness.

THE PRESIDENT: Are there any announcements before we get under
way?

MR. SPEECHER: Mr. President, Dr. Nelte and I had a rather extended
discussion concerning the problem which was raised by Dr. Boettcher
last week. In our view it would be helpful if Dr. Nelte started the
discussion before your Honors this morning. As I understand it Dr.
Boettcher is not here and has left the problem up to Dr. Nelte.

THE PRESIDENT: The Tribunal will be glad to hear Dr. Nelte.

DR. NELTE: Dr. Nelte, counsel for the defendant Hoerlein. Mr.
President, I am going to discuss the question how we should proceed
when counsel has submitted an affidavit but is not in a position to
bring here the affiant for purposes of cross examination. The supposi-
tion of my colleague Dr. Boettcher when I saw that in cases of other
Military Tribunals a ruling has already been laid down for such
cases was based, as Dr. Boettcher told me, upon erroneous information.
One, therefore, cannot speak of any hard and fast rule for such an
eventuality. In the case of the affiant Jacobi, the defense does
not intend to dispense with the examination of the witness who
obviously cannot be brought here. This question is to be carried out
in a manner which has yet to be agreed upon between the defense and the

and the prosecution, That's all I have to say.

THE PRESIDENT: We will hear the prosecution,

MR. SPRECHER: May it please the Tribunal, since the question was raised if it is agreeable with your Honors I might point out one or two passages in the transcript in the IMT case where this question did come up. Perhaps you are already familiar with these passages but if it's agreeable to you I might point them out so that any further discussion can be based upon an exact quotation. There may be two or three but these are just a few examples that have come to my attention in my research I did on the week-end.

THE PRESIDENT: We will be glad to hear them.

MR. SPRECHER: With the assistance of Dr. Charnatz. The first incident which has come to my attention in the IMT case which raised the issue very squarely was the case of an affidavit by the affiant George S Messersmith, who was the former Ambassador to Germany. At page 468 of the transcript, the official transcript of the IMT case, the matter comes forth. An objection was made by defense counsel Kubuschok and for the prosecution Mr. Alderman stated that he recognized, of course, the inherent weakness of an affidavit as evidence where the witness could not be brought for cross examination and then he proceeded to indicate that Messersmith for reasons of ill health was not available. Then if you will go over to page 473 of that transcript you will find that the President of the International Military Tribunal stated that the affidavit was admissible but that the question of its probative value as compared to an affidavit where the witness could be brought before the Tribunal was something the Tribunal would have to consider in each case and he added that, of course, the defense had open to it the submission of interrogatories, and, I think that ruling, if there wasn't one before it -- I think that ruling determines the pattern which has been followed ever since in Nurnberg in the War Trials.

THE PRESIDENT: Just for our information, Mr. Prosecutor, what's the situation with reference to the witness Jacobi, whose affidavit

is in evidence? It's been indicated that he cannot be produced or may not be. What's the reason?

MR. SPRECHER: He is in the United States, without the jurisdiction of this Court and I think it would be exceedingly difficult to make any arrangements whatsoever for him to come to Germany but as I indicated before, he is a very intelligent man and I am certain he will understand any interrogatory submitted to him by either the defense or the prosecution.

THE PRESIDENT: Very well.

JUDGE HERBERT: May I, Mr. Sprecher? In so far as the precedent of the IMT may be concerned do you recall whether there was a similar provision in the Charter establishing the IMT to the provision which I believe is contained in Control Council Law No. X with reference to the right of the defense to cross examine witnesses against them?

MR. SPRECHER: Yes, there was.

JUDGE HERBERT: Or somewhat similar provisions in the Charter?

MR. SPRECHER: Yes. There was a provision in the Charter that the defense would have the right to cross examine all witnesses. Meaning, of course, the witnesses who were brought before the Court. There's also the provision and I think the President of the IMT makes some reference to it in the passages of the transcript to which I have already referred. Now, --

THE PRESIDENT: Is it your view that provision is only applicable to those witnesses who are actually produced and testify and that a different rule might be followed with respect to evidence in affidavit form or statement form or some other form where the witnesses are not actually before the Tribunal? In other words, would you put a construction on that provision that the guarantee of the right of the defendant to cross examine witnesses is restricted and limited to those cases in which the witness is produced before the Tribunal?

MR. SPRECHER: Yes, your Honor. I think that's rather an old rule. In International Law, for example, in admiralty cases which have

arison for centuries the difficulty of having all witnesses before the Admiralty Court for cross examination existed for many centuries. As I understand it, and in cases coming before the World Court, the process of using affidavits and cross-interrogatories has been very extensive. However, by stating that, Mr. President, we don't want to indicate that I think that Mr. Alderman indicated to the IMT that we do not want to produce wherever we can, the witness or the affiant for cross examination because obviously that affects greatly the total weight which your Honors may desire to attach to the matters stated in the affidavit and, as a matter of fact, in our practice here where we have introduced affidavits now by more than some 60 people, I think the question has arisen in only two cases so far where we will not be able to produce the witness. So far as we now know, in one of these cases I think we may be able to produce the witness. There are also cases where the affiant is now ill, but we will get them here in due course and we are making every effort to be able to do that.

THE PRESIDENT: While we are propounding here let me suggest another subject just to have the benefit of your views while you are on the floor. Do you attach any importance or significance to the fact that the so-called IMT case was strictly an international Court? And, on the Bench of that Court were representatives of four powers which, as a matter of common knowledge have very divergent judicial systems? Two of them following what's commonly called the Anglo-American system of jurisprudence, another strictly the so-called "Continental system" and the fourth perhaps a different one yet? That's how that Tribunal, of course, was constituted. Do you draw any distinction or see the cases have a different practice when this Tribunal is an American Court constituted under American law and where the members of this Court are under one oath that is to uphold and defend the Constitution of the United States of America?

MR. SPRECHER: No, your Honor, I don't, for the simple reason that in our view we are enforcing international law and that the law that

gives jurisdiction to this Court is a law enacted by the Control Council and your Honors acquire your authority to sit by virtue of that law, Ordinance No. 7, which was enacted by the Military Governor of the U.S. zone and was enacted by authority he derived from Control Council Law No. 8 and your Honors sit here enforcing international law and in our view, being free to apply any procedure authorized within Ordinance No. 7 which will ensure a fair and just trial. I don't think the fact that the members of the Tribunal come from a country which has the Anglo-Saxon judicial system influences the matter in any way as a matter of right but rather as a matter of convenience. The fact that your Honors are familiar with that system of procedural law and naturally attach to it a great importance in applying standards here which are necessary to the insuring of a fair and orderly trial, of course, is important.

THE PRESIDENT: Of course, I think we would all concede that the source of the jurisdiction and the basis upon which this Tribunal was created does arise out of international agreement. We understand that. What I was directing your attention to was this. Is there any different practice? Is the practice more liberal or more strict or is it identical with the IMT case in matters in the field of adjective law procedure, so to speak, rather than a matter of jurisdiction? That is what I had in mind. Perhaps I didn't make it very clear to you.

MR. SPEECHER: Well, my knowledge of adjective law in the international field, which I must admit, is not as extensive as I should like to have it. It seems to me that the procedure has been much more liberal with respect to rules of evidence and of necessity must be in an enquiry which is calculated to get as much of the truth as possible before the Tribunal attempting to adjudicate these questions and it seems to me that was the reason behind the provisions in both the Charter in Control Council Law No. X and Ordinance No. 7 with respect to adjective law where questions of procedure are mentioned.

THE PRESIDENT: I hope you will pardon us for the interruption. That was just some things I thought might direct your observations along the line of some problems which we are confronted. If you have anything further to say I want to afford you an opportunity to say it without so many interruptions so just go along.

MR. SPEECHER: Just one other thing. On the question of producing witnesses; I have checked with the prosecutors in a number of other cases and I find that their practice is not different than that which we have suggested to your Honors this morning and not different than what Dr. Melte described to your Honors this morning.

DR. MELTE: Your Honor, may I just make one more personal remark? I must say first of all that the defense with respect to the basic

settlement of this question has made no decision as yet whatsoever. I do believe, however, that we and I basically can agree to these rules and directives which have just been uttered by Mr. Sprecher. If I understood Mr. Sprecher correctly these rules intended to mean that the principle, the ever-all principle, of this proceeding should be the question of fairness. It's clear that in a proceeding, that is, this one, which has to be directed according to international law as well as international procedure cannot keep its rules very rigid. However, there must be one limit. This limit means the maintenance of the rights of these defendants. Mr. Sprecher in his statement by indicating the person of the witness Messersmith during the first trial has shown a significant example. As you heard from his quotation the witness Messersmith was ill and I know that because I, myself, called him for my case. He was an Ambassador in Mexico and could not be brought here.

I believe that our starting point must be that the right of cross examination is the primary law valid for the defendants and that this right can only be limited if it cannot be enacted for convenient reasons if it isn't possible to bring the affiant here for purposes of cross examination. I think one should agree upon this principle. Of course, in cases of doubt the defense should have a greater right on their behalf because, after all, it is the primary right of the defendant to cross examine the affiant in the case his interest warrants that procedure.

THE PRESIDENT: This is, as is very apparent, a matter of importance to the prosecution in the presentation of its case. It's a matter of great importance to defendants, counsel for defendants in the representation of their client's interest and consequently a matter of importance to the Tribunal. We shall follow the sound practice. I have taken the liberty of propounding some enquiries to you gentlemen. I want to afford my associates the same opportunity of directing your thoughts along any lines that you may not have

covered, Judge Morris, do you have any questions you want to ask on this matter?

JUDGE MORRIS: Not now, your Honor.

THE PRESIDENT: Do you, Judge Hebert?

JUDGE HEBERT: I don't believe I have any questions. If I understand the matter, the procedural interpretation which would have to be given by the Tribunal relates to Military Ordinance No. 7 rather than Control Council No. X and in its essence, if I understand the statement of the prosecution, it's the position of the prosecution that the provisions of Art. 11 which says that the prosecution shall produce its evidence subject to cross examination of its witnesses that that provision of the Ordinance is limited in its application to witnesses who are produced in person and that it does not affect the admissibility of an affidavit; that under the liberal practices which prevail before these Tribunals by virtue of the provisions in Art. 7 relating to the admissibility of affidavits, depositions, interrogatories, etc., that the affidavit even of a witness who cannot be produced for cross examination is admissible in evidence. The fact that he cannot be produced for cross examination does to a certain extent affect the probative value of that evidence but there comes into play the provision, the further provision of Art. 7, that the Tribunal shall afford the opposing party such opportunity to question the authenticity of the probative value of such evidence as in the opinion of the Tribunal the ends of justice require. As I understand the position of the prosecution, even if the witness cannot be produced, the affidavit is still admissible and that the Tribunal might enter an appropriate order for interrogatories to be submitted as a means of complying with Art. 7 if the ends of justice seem to require that that should be done as a means of testing the authenticity of the evidence and then over and beyond that any other means is open to the defense by argument or by counter-witnesses, etc., to detract from the value of that testimony and that the

procedure adopted by the IMT was to that effect and that there is no difference, is that correct?

J.R. SPEICHER: Yes, Judge Hebert. You certainly stated our position very well.

THE PRESIDENT: Judge Merrell?

JUDGE MERRELL: I believe Judge Hebert has stated the rule as I understand it, particularly from Ordinance 7. I believe emphasis should be placed on the right and importance of cross-examination, particularly with reference to the witness Jacobi and that steps should be taken, if possible, for him to be cross-examined either by interrogatories or by counsel appointed in the United States, following the same procedure as would be followed in taking deposition. It seems to me there will be time to do that and in all fairness to defense such efforts should be made.

DR. SILCHER: Counsel for Dr. von Knieriem. Your Honor, since Dr. Boettcher is not present and cannot be present at the moment and since Dr. Nelte was also not present during a discussion we had about this question among defense counsel, I should like to bring up the question whether it's necessary to arrive at any basic decision as to this question. During our discussion, that is, discussion among defense counsel, we have agreed that an attitude of the entire defense as to this question is quite impossible. With reference to the defendant Jacobi, who is the subject of the question at the moment, we shall settle it one way or another without having to decide upon the entire matter basically. If I am informed correctly it might perhaps even be possible that this witness can be dispensed with. I say "perhaps". Do not misunderstand my remark.

If he cannot be dispensed with I am sure some way will be found on the basis of our own considerations and through the assistance of the Prosecution to bring about some sort of an examination in the United States. Concerning this very difficult question I think we could wait until it actually becomes acute. At that point we shall naturally have more experience. We shall know whether or not it will assume a great deal of importance or not and then the defense will have the opportunity and occasion to discuss among themselves this basic question among themselves first.

THE PRESIDENT: Counsel for the defense has very nearly indicated the State of Mind of the Tribunal. Certainly we are not disposed to anticipate a controversy that may not arise, neither are we inclined to enter into the field of uncertainty as to the character of questions that later arise. There is only one matter or subject before us at this time, and that is with respect to the witness Jacobi. The President suggests counsel for the Prosecution and Defense continue their informal discussions and negotiations with respect to the matter as to how that matter can be met and we will meet any other issue if and when they arise. Perhaps there may not be as many of them as we might at this time anticipate. We just took advantage of this opportunity to give you the privilege of expressing your views because it may throw some light on the approach to the whole problem. We will look forward and hope that counsel for the parties can agree on how the Jacobi matter is to be handled and will not charge our minds with it unless unfortunately you are not able to agree on a policy and if you can you will present it and in the meantime we will make no commitment of policy whatever, is that agreeable? Is that agreeable, counsel?

DR. SILCHER: Yes, Mr. President, that is entirely in accordance with what we consider to be correct.

THE PRESIDENT: Is it agreeable to the Prosecution?

MR. SPRECHER: Certainly, Mr. President. Before we proceed, might I make reference, Mr. President, to another memorandum which the

Prosecution has drawn up concerning plans. This memorandum is entitled the "Second Memorandum for the Tribunal", concerning Affidavits, etc., namely by affiants who are not defendants, and it is dated the 18 October 1947. Copies have been distributed through the defense center and should soon be available to all defense counsel. I gave a few of the defense copies this morning. It is merely intended as a compilation to be of assistance to all of us in connection with questions arising concerning affiants, concerning whom there has been no waiver or who have not yet testified and who are not defendants. By the time we have completed the proof on Section "H" of Count I, that is the principal documentary proof submitted in connection with these sub-sections, we will have outstanding 31 affiants, and I think the total number of affidavits is something over forty. In other words, we have already either had the examination or the equivalent of those affiants who have given more than 100 affidavits. In this connection, I was informed by defense counsel this morning they do make a waiver of cross examination with respect to the affiant, Paula Ester, who is the Secretary of the Defendant Schmidt, that is with respect to Exhibit 316, document NI 5136.

THE PRESIDENT: Is there any objection on the part of the defense counsel to the Tribunal entering an order to the effect that cross examination of the witness Paula Ester has been waived by defense? The President hears no objection and it will be and is ordered by the Tribunal that the Prosecution need not produce the witness, Paula Ester, for cross examination, because of the fact that the defense has waived the cross examination.

MR. SPRECHER: Mr. Dubois has just pointed out to me that I made an error. I said 31 affiants and I should have said 23 affiants, and the total number of affidavits concerning which there has not been cross examination are 47.

THE PRESIDENT: Now all counsel for the defense may not have in hand this list of affiants. We ought to have that information and have

sufficient time to determine after consultation among yourselves and with your clients as to whether or not you do desire to cross examine all of those witness. Can you indicate how soon this list will be made available to all defense counsel, Mr. Prosecutor?

MR. SPRECHER: I was rather surprised to find it hadn't been distributed this morning because I sent out, ample copies on Saturday, and I am sure it is no default on the part of defense that it has not been put in their rooms but it should be there.

THE PRESIDENT: We will not fix a definite time but the Tribunal will from time to time and day to day remind you of this and call this list of witnesses or part of them, so that you may have the opportunity to indicate whether or not you do or do not desire to cross examine, that is important and necessary so that the Prosecution can make it's plans for the production of the witnesses who are to be brought in, also bear in mind we would like for you to cooperate with us in reaching an understanding as promptly as possible with respect to whether or not there is to be cross examination of these witness.

Anything else, Mr. Prosecutor?

MR. SPRECHER: Just one thing. I anticipate sometime during the next week we will bring in a considerable number of these affiants for cross examination pursuant to a request previously made by the defense counsel.

THE PRESIDENT: In the course of the next couple of days the Tribunal will expect to be advised by counsel for defense their desire with respect to the cross examination of these witnesses. We ought to have the opportunity to have the list before us. Consult among yourselves and with your clients, but after that we will expect to be advised. Do we not have, gentlemen, a matter of procedure with respect to the introduction of exhibits which was to be presented to us this morning, an objection to the introduction of an exhibit, I mean in connection with the matter you just discussed. There was an exhibit, was there not, in which there was some question as to whether or not

it was admissible because of being a government report or something to that effect. I think maybe it may have provoked this question, we have been discussing, but I want to get the record straight on this exhibit.

MR. SPRECHER: Yes, that was a collateral matter that came up by the initiative of Dr. Hoffman and Dr. Hoffman and I have not yet gone over that side of the matter and I am awaiting his initiative.

THE PRESIDENT: My point I am raising is the marking, whether or not the particular exhibit was or was not an exhibit. I have a question mark, so at the proper time if you will indicate to the Tribunal whether or not the exhibit is in with the objection or whether the objection is to be urged so that we will not have the exhibit before us.

MR. SPRECHER: Mr. President, as I previously stated the affidavit should be in evidence, but it would be subject to a re-opening if Dr. Hoffmann was not satisfied, after the discussion with the Prosecution.

THE PRESIDENT: Very well, now just one more thing before we start the trial proper. This might be a good time to have a definite understanding of counsel with reference to our program for this week. The Tribunal is of the opinion that for the time being it is not necessary or advisable to have these longer week ends. You will recall there was a time when we were somewhat handicapped by the slow distribution of document books. We are advised that there is some backlog of document books now and consequently we see no reason why we should not be in session on next Monday. We will reserve the right to adjust our program from time to time to meet the situations as they arise but please do not anticipate that we will be in recess on next Monday. Is there any desire on the part of counsel to further expedite the trial of the case with reference to Saturday sessions?

DR. SILCHER: Your Honor, may I define my position to this matter on behalf of the defense counsel, because I had the opportunity to discuss

this matter with them before. Defense counsel and the defendants believe that they actually do need this long week end, the speed with which the documents are being submitted means that records have to be looked at, and our witnesses have to be examined, and during the days during which we are in session, we really have very little time in order to prepare our own defense. Actually the week ends afford us the only possibility when we can do anything at all in order to prepare our defense because of the peculiarity of this indictment, which believes very strongly and is based on the collective responsibility of the Vorstand, it is absolutely essential that the defendants and counsel advise among themselves in great detail, and it would have been different, of course, if we had 23 or 24 individual delegations which are not inter-connected to the extent that they are, but since they are collective responsibility, assumed by the Prosecution, it makes it absolutely essential for us to discuss among ourselves repeatedly, defense counsel, with the defendants, and that is why the preparation of our defense takes such a long time and from the view point of the accessibility of the prison we can mostly only see our defendants over the week end and discuss matters at any length. I think that it would be limiting the possibilities of the defendants if they were deprived of these long week ends, including Monday, and I should therefore like to say on behalf of the defense and on behalf of the defendants, and I should like to request you urgently that the ruling that you have made so far be maintained, which, of course, does not serve merely the pleasure and enjoyment of the defense and defendants but merely our work.

THE PRESIDENT: The Tribunal's thought was simply this: Counsel, it has been indicated we are pretty well approaching the end of the Prosecution evidence as it relates to Count I of the indictment. Now it was merely our thought that we might run the five day week next week, if necessary, to the point at least where counsel for the Prosecution has completed it's evidence on this count. Now if a

situation arises that you gentlemen can convince the Tribunal to afford this opportunity, that with respect to the proper defense some leeway must be granted in the future, we are open to conviction on that point. It was merely our thought that at this stage of the trial there was really no necessity for a longer week end, at least until we have completed hearing the evidence of the prosecution as it relates to the first count. Do you feel that it would be an undue hardship on the defense for us to be in session specifically next Monday, in view of the fact that we are pretty near the end of the evidence that the Prosecution is expecting to present with respect to Count I.

DR. SILCHER: Your, Honor, may I discuss this matter for a few minutes with my associates and the defendants.

THE PRESIDENT: That isn't a matter that the Tribunal necessarily needs to meet at this time. We will bring it up at the afternoon session or at the end of the day's session and give you all an opportunity consult among yourselves and your associates and perhaps you can agree on a program that might meet the ideas of the Tribunal. We simply thought if the week end is to be shortened it should be indicated as early as possible so that you would know how to make your plans, but you need not take time for a conference now and we will pass the matter without commitment until later in the day or perhaps tomorrow morning.

DR. SILCHER: Very well, Your Honor.

MR. SPRECHER: Mr. President, with reference to what you said about the completion of the evidence on Count I, on question crossed my mind, and with your permission I would like merely to state that we think that today the Prosecution will finish with the presentation of all the documentary proof under Count I, with the exception, of course, of the allegations under Count-i, of Count I, which includes by reference the facts alleged in Count II, and Count II as being a part of Count I, and, therefore, with the exception of Count I, and with the exception of those witnesses who are outstanding on the list

which is before all parties, we will be in Court II proper sometime this afternoon.

THE PRESIDENT: Well, of course, that is subject to the other observation that the cross examination of your affiants produced in support of Count II would be really regarded as part of the evidence under Count I.

MR. SPRECHER: Indeed.

THE PRESIDENT: And that is going to take a little time. Very well the Prosecution may proceed with the presentation of it's case.

MR. DUBOIS: I would like to finish at this time, Your Honors, the documents in Document Book 43. The last document that has been offered in evidence was NI 10965, which is on page 159 of the English and 181 of the German, which had been offered as Prosecution Exhibit 1003. The document that has just been offered relates to the restrictions of production of magnesium in the United States and the restrictions on it's exportation to other countries, and the next six documents in this book indicate how the American companies were unable to furnish magnesium due to these restrictions to various customers in various parts of the world. We offer next as Prosecution Exhibit 1004, NI 10954, which appears on page 166 of the English and 186 of the German, relating to Dow Chemical's inability to offer magnesium for export.

As Prosecution Exhibit 1005, we offer NI 10953, which appears on page 167 of the English and 187 of the German, relating to Dow's inability to furnish magnesium to an Egyptian firm.

And as Prosecution Exhibit 1006, we offer NI 10952, which appears on page 168 of the English and 188 of the German relating to Dow's inability to furnish magnesium alloys for air craft purposes to a firm in London.

As Prosecution Exhibit 1007 we offer NI 10960, which appears on page 169 of the English and 189 of the German, relating again to the inability of supplying magnesium to England.

As Prosecution exhibit 1008, we offer NI 10955, which appears on
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page 172 of the English and 191 of the German, relating to the inability to supply magnesium to Roumania.

And as Prosecution Exhibit 1009, we offer NI 10959, which appears on page 173 of the English and 192 of the German, relating to the inability to supply magnesium to Canada, and the next three documents in this book have already been offered in other document books.

NI 4832 which is an affidavit of Ernst Struss has been offered as Prosecution Exhibit 744 and concerns the construction of secret magnesium plants and stock piling of magnesium and expresses the opinion of Struss that the stock piling was the reason Farben for procuring of magnesium from Dow Chemical. NI 8317 has already been offered as Prosecution Exhibit 90, which is also an affidavit of Struss relating to the magnesium plant.

NI 1146 has been previously offered as Prosecution Exhibit 745 and concerns the stock piling in case of war of electron mill.

And as Prosecution Exhibit 1010 we offer NI 622 which appears on page 185 of the English and 208 of the German. This is a memorandum to Col. Thomas, Chief of the Military Economic Office from Farben in October 1936, concerning the erection by Farben of a small magnesium factory in England and indicating that the matter had received the approval of the Reich War Ministry. This not only enabled Farben to control the production of magnesium in England for the purpose of the German government but also as previously noted in Prosecution Exhibit 884, that was in Book 48, this factory was the main magnesium factory in actual production in England at the outbreak of the war, and was also indicated in the Exhibit which was introduced in connection with Section G, surely after the outbreak of the war Farben furnished the Reich Air Ministry with the location and plans of this factory to be used in connection with bombing raids of the Luftwaffe.

Now the next four documents relate to the Farben furnishing tetracenes, Prosecution Exhibit NI 10969, we offer as Prosecution Exhibit

1011. This is a contract. It appears on page 188 of the English and 211 of the German. It is a contract by the Rheinisch Westfaelisch, which was a subordinate of Dynamit Nobel and Remington Arms Corporation, the original contract being in November 1929, concerning the manufacture of tetracenes and here I would call your attention particularly to the furnishing at that time of military ammunition. It appears on page 193 of the English and 216 of the German.

Now this agreement was then revised in 1934, January 1934, and we offer NI 10970 as Prosecution Exhibit 1012, appearing on page 211 of the English and 226 of the German, and which is a revision of the previous agreement, that is the Dynamit Nobel as successor to the Rheinisch Westfaelisch, and we call special attention to the modification of the defense of military ammunition appearing on page 214 of the English and 228 of the German, under the heading, paragraph numbered 2, Roman numeral II. You will note particular mention is made of the care and the defense of military ammunition which was protected also as to include among other things the storing of ammunition for the purpose of war.

The next two documents are the memorandums in which the stockholders or Remington Arms expresses the view that the sale of tetracenes ammunition to the British Purchasing Commission, even after England entered the war, was prohibited by virtue of these contracts.

As Prosecution Exhibit 1113, we offer 10963, which appears on page 222 of the English and 236 of the German, and as Prosecution Exhibit 1014 we offer NI 10964 which appears on page 224 of the English and 238 of the German.

As Prosecution Exhibit 1013 we offer NI-10963, which appears on page 222 of the English and 236 of the German. As Prosecution Exhibit 1014 we offer NI-10964, which appears on page 224 of the English and 238 of the German.

The next document relating to nitrogen is an affidavit of Walter Jacobi, NI-7745, has already been offered as Prosecution Exhibit 611, in Book 34.

The next document NI-11197 has already been offered as Prosecution Exhibit 888.

As Prosecution Exhibit 1015 we offer NI-11204, which is an interrogation of the Defendant Kugler in July 1945 appearing on page 237 of the English and 254 of the German.

DR. SILCHER (Representing Dr. Henze, Counsel for Dr. Kugler):

Dr. Henze could not be present during this morning's session and he therefore asked to object to state the following with regard to the document which the Prosecution intended to submit.

"With respect to NI-11204 I object to its admissibility. This is a record of an interrogation dated July 1945. This interrogation record does not constitute a statement given voluntarily by my client. Therefore, he withdrew and recalled this record, together with other records dating from that period. This was done already before in Nurnberg in 1947, during this trial. The Tribunal during a former session, when my colleague Dr. Siemers made a similar objection, had asked Defense counsel to make a written statement in which the reasons should be stated on the basis of which it could be seen that a statement signed by a defendant cannot be considered to be voluntary.

I shall adhere to this request of the Tribunal briefly, and I shall file such a statement with the Secretary General."

That is the end of Dr. Henze's statement.

THE PRESIDENT: On the showing made, the Tribunal will permit the document NI-11204 to be assigned No. 1015 as an exhibit number, for purposes of identification only. The matter of whether the document is or is not to be admitted in evidence will be passed upon and determined after counsel for the Defense files his written objection to the admissibility of the document, and after the Tribunal is advised with respect to the matters that may be so presented.

Mr. DuBOIS: Prosecution would just like to suggest first Dr. Silcher examine -- if he has not already done so -- the offered exhibit which contains not only the signature of the Defendant Kugler at the end but also his initials with respect to various changes on the first page; and Prosecution would also like it made clear -- it was not quite as clear to me to me as I would like it -- whether or not the Defense is intending here that there was duress used in connection with this interrogation.

DR. SILCHER: Mr. President, I am in a somewhat difficult position because I only read the statement on behalf of my colleague, Dr. Henze. Since the text of this statement, which I assume has been compiled carefully, to the effect that this record which is to be submitted does not constitute a statement given voluntarily by Dr. Kugler, I would assume that this shows clearly that duress was used, and answers the question by the Prosecutor.

I don't think that any further statement is necessary.

THE PRESIDENT: The Tribunal is inclined to the view that the statement of counsel for the Defense that the statement was not voluntarily made is sufficient notice of an intension to question the ultimate admissibility of the document. Of course, it will be necessary, if objections are filed, that they present good, just, legal reasons why the document should not be admitted into evidence; but certainly in the absence of counsel for the Defendant, whose statement has just been read, the Tri-

bunal feels that in fairness to him the matter ought to be kept open until he can file his written objection.

Now, just one thing more, in order that these matters be not unduly delayed and overlooked in the mass of evidence with which the Tribunal must deal in this case, it would be well perhaps for us to indicate a time within which that objection should be filed. We shall designate now as the time within which counsel for the defendant shall file his objection as one week from today. Will you see that counsel is advised of the ruling of the Tribunal?

DR. SILCHER: Yes, Your Honor.

JUDGE HEBERT: Before we pass the subject, I want to ask what is the correct date of this interrogation. Was it 1945, as appears on our copies?

Mr. DuBOIS: That is right, July 1945.

As Prosecution Exhibit 1016, we offer NI-7543, appearing on page 239 of the English, 258 of the German, which is excerpts from an interrogation on April 1947 of the Defendant von Knierim concerning the clearance of foreign agreements with the Military Economic Staff of the Wehrmacht.

As Prosecution Exhibit 1017 we offer NI-10786, which appears on page 252 of the English and 268 of the German.

DR. SILCHER (Counsel for the Defendant von Knierim):

Your Honor, with respect to the document which has just been submitted, NI-7543, which is only available in excerpts, I should like to point out that it was not signed by Mr. von Knierim. This fact does not move me to object to the admission of this document because, according to the practice of the Tribunal, this fact does not preclude the admissibility of the document. Since, however, only excerpts are submitted I should like to bring this fact to the attention of the Tribunal. I should also like to bring to the attention of the Tribunal that the omission of this signature is not accidental but it was dispensed with in

agreement between the interrogator and Mr. von Knieriem. The interrogator, because of some special reason, could not give him sufficient time to correct the record. For that reason a number of typographical errors are in the record which rather distort the sense. For instance, it says there "cartel crime" instead of "cartel contract." This, however, is only an example. I should just like to make a statement now in order to bring your attention to the doubtful character of this evidence.

Mr. DuBOIS: May it please the Tribunal, this interrogation was conducted by Mr. Amchan and was taken down by a secretary who certified that this is the record of the interrogation. Now, obviously, if the defendant von Knieriem feels that there are any further additions that he wants to make to it, in any way as does not represent his views, he has an opportunity now or later to add to it. The interrogation is certified, as I said, by the secretary who was present and took it down.

THE PRESIDENT: The attitude of the Tribunal with respect to this matter will be the same as it has indicated concerning other matters of a related character. If counsel for this defendant feels that the entire document should be submitted for the consideration of the Court, rather than the excerpt which the Prosecution has brought forward, the Tribunal will at the proper time receive the entire document. If the defendant feels that there are inaccuracies or errors in the statement, he will be afforded a timely opportunity to point them out to the Tribunal. That, especially, ought to be true where the signature has been waived. The Tribunal will note in the record the observations of counsel for this defendant, and, when the Defense presents its evidence, will afford this defendant an opportunity to amplify or correct this statement as he thinks it should be to make it speak the truth.

DR. SILCHER: Mr. President, I don't know whether the German translation was correct. Let me just make sure about one thing. Your words

were translated to the effect that the signature was "withdrawn". The truth is that Knieriem did not sign this document originally. I just wanted to state that for the record.

THE PRESIDENT: What the Tribunal had in mind, and what we thought we said, was that perhaps the signing of the document had been waived by the parties at the time -- not that the signature had been withdrawn. And we base that on the statement of counsel. We know nothing about it. But whatever the fact may be, you will be given an opportunity to make a showing.

Mr. DuBOIS: I think we just offered as Prosecution Exhibit 1017 NI-10736, appearing on page 252 of the English and 268 of the German, which is extracts from a report on cartels and national security from the Sub-Committee on War Mobilization of the Military Affairs Committee of the United States Senate, a specific reference to Farben. I would like to point out I already asked the Defense counsel that what appears on page 255 of the English and at the top of 256 in the English book, down to "I.G. Farbenindustrie", was not translated into the German book, and for our purposes was not intended to be part of the English excerpts, so we will regard this exhibit as starting after the heading "I.G. Farbenindustrie and its ramifications," which is on page 256 of the English and 270 of the German.

THE PRESIDENT: Do we understand that all that part of this document, before the middle of page 5 in the English, may be stricken out of our books?

Mr. DuBOIS: Before the middle of page 256.

THE PRESIDENT: Yes.

Mr. DuBOIS: That is right.

As Prosecution Exhibit 1018 we offer NI-10784, which appears on page 262 of the English and 274 of the German, which is extracts from

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a study made for the Sub-Committee on War Mobilization of the Committee on Military Affairs of the United States Senate, in 1944. That part of this exhibit appearing on pages 264 of the English and 265 of the English should be stricken also.

On page 271 of the English, at the bottom of the page, beginning with the numbered paragraph 2, "Restrictions upon invention and technological change...etc.," the rest of that page should be stricken and all of page 272 should be stricken, and all of page 273; also, all of 274 and the top of 275, down to paragraph numbered 4.

As Prosecution Exhibit 1000— I am sorry, in case there is some misunderstanding, what we are striking are the portions that do not appear in the German books.

The Prosecution Exhibit 1015 we offer NI-10785, appearing on page 282 of the English and 283 of the German, which is extracts from testimony by Attorney General Biddle in hearings before a subcommittee of the Committee on Military Affairs, concerning Farben's efforts to restrict American production. There is a minor correction also here: that part of the Index beginning on page 283, after "Wendell Berge", page 981, that part of the Index after that on page 283 and all that part of the Index on page 284 should be stricken, and also on page 287 of the English, the very last paragraph beginning "The Chairman" should be stricken. That finished the conclusion of the document books relating primarily to Section F, Count I. Mr. Amchan will now proceed with document books relating to Section H of Count I.

MR. AMCHAN: Document Book 50, if Your Honors please. If your Honors please, we are about to present the documentary proof with respect to Count 1, Subdivision H, and the books relating to that portion of Count 1 will be Document Books 50 and 51. It might be helpful, we believe, to indicate generally the scope of the charges contained in Subdivision H.

At the time we drew the Indictment we were mindful of the decision of the International Military Tribunal with respect to Schacht. As we read the decision of the IMT to us it means that Schacht, when he saw Hitler's policies inevitably leading to war, withdrew. He saw war coming and he withdrew from the government and declined to partici-

pate any further in those plans and preparations. Farben, as we charge, in Count H, seeing the course of events and the road which it would lead to, made no effort to withdraw but, on the contrary, accelerated its participation and its preparation, and stayed with Hitler to the end.

The Schacht decision, as we understand it, means that there is an area in law where a defendant may withdraw before the fatal act is committed. There is a sort of locus penitentiae which is known to the criminal law indicating an area where they can withdraw.

Subdivision H, as we have framed it, is on the theory that within that area where these defendants could withdraw, in the area where these defendants could withdraw, they took no action—and, in fact, took the contrary action.

DR. HEINZELER (Counsel for defendant Wurster): Your Honor, it is my opinion that counsel for the Prosecution has just conducted a plea, an argument, and did not limit himself to the frame of the submission of evidence. I, therefore, request the Tribunal to see to it that such statements are stricken from the record.

THE PRESIDENT: As we have said before, strictly and technically speaking, there is no such thing as "striking" anything from the record of these proceedings. At most, we can only indicate that we would or would not consider it. It is a practical matter; everything that is said in this trial is recorded, not only on paper but on a sound track. Consequently, it would be an idle gesture for us to strike it. The Tribunal can assure counsel for the Defense that this, like other observations that have been made by counsel for both sides in this case, will be treated as the unsworn statement of counsel as to what he thinks the evidence will establish. It will not be considered as evidence by the Tribunal, and will only serve to advise us of what he expects his evidence to establish. The Defense will not be harmed or prejudiced by the presence of the statement in the record over which we really have no control anyway.

Thank you very much.

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MR. AMCHAN: Now, if your Honors please--

THE PRESIDENT: Counsel, are you now about to take up the actual introduction of these documents? Or do you have some more observations?

MR. AMCHAN: Only three minutes' worth, and we can proceed with the documentation.

THE PRESIDENT: I was going to suggest: complete your statement regardless of the clock, and when you have finished your statement, before you start the introduction of the document, we will take our recess.

MR. AMCHAN: Now, if Your Honors please, is the scope of the charges indicated in subdivision H. And we have indicated during the presentation of evidence as to other facts, the acceleration at that particular moment, principally in 1938, after the Austrian invasion and the Czechoslovakian crisis. What we shall deal with in these document books are a limited feature of the acceleration and participation at this particular moment.

In Document Book 50 we shall bring in the legal work done by Farben to camouflage its assets abroad in order to protect its foreign empire from seizure in the event of war. Thereafter, we shall deal with the particular events preceding and immediately following the Austrian and Czechoslovakian crisis.

Now, just one other word which I believe will be helpful. Control Council Law No. 10, in the definition of crimes against peace, refers to initiation of invasions and wars of aggressions. The charter under which the I.M.T. operated did not contain the word "invasions" in its definition of crimes against the peace. We have, therefore, a much broader definition of what constitutes crimes against the peace in this case than was present under the I.M.T.

It is for that reason that Austria and Czechoslovakia are charged in the Indictment as being invasions of other countries, and the evidence with respect to their preparation, participation and acts

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preceding and subsequent to invasions bring that, in our view, within the precise scope of the definition as set forth in the Control Council Law. With those preliminary remarks, we will be prepared to proceed with the documents.

THE PRESIDENT: The Tribunal will rise for its morning recess.

(A recess was taken.)

(After Recess)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Now, counsel, just before you start on the introduction of the documents in book 50, permit the Tribunal to say that as time goes on in the course of this trial, we have become more and more convinced that a very brief statement of the contents of the documents will suffice. We think much time can be conserved by simply calling our attention to the contents of the document because we will have before us the description contained in your index, which we will take as indicating the scope of the document unless counsel for the defense points out some inaccuracies. We have facilities for digesting these documents, and we will appreciate your making your presentation as brief as you think the importance of the document will warrant. We impose no iron-clad rule on you. We well recognize that there may be documents that you will consider of such importance that they justify a more full and complete analysis. We just ask you to keep in mind the policy that we think is best calculated to expedite the trial and leave the matter to your good judgment.

Thank you.

MR. AMCHAN: I might just make one statement in connection with my remarks. I indicated that control council law No. 10, had the word "invasion" and that did not appear in the charter. I do not mean to be understood to say that there is an additional definition in the control council than appeared in the charter because the IMT described the action as to Austria and Czechoslovakia, as aggressive steps, so it is probably just a matter of terminology. I just want to call your attention to the appearance of the word "invasion" in the control council law which did not appear in the charter under which the IMT operates.

As prosecution's exhibit 1020, we offer NI 2796. This is the minutes of a meeting of the legal committee of Farben, held on March 17, 1939, and in June 1939, a copy of those minutes are forwarded to the persons whose names appear on page 1 of the document book, Schnitzler, ter Meer and Kugler, and it relates to protection of I.G. assets abroad, and they discuss protection against sequestration in time of war.

On page 2, if your Honors please, which is page 2 of the German, the opinion indicates that I.G. assets in foreign countries consist principally of sales organizations, (a); (b), instead of "deports" it should be "merchandise in stock", (c) claims, and (d) patents, and then the opinion proceeds to discuss with respect to each one of those assets, what steps should be taken to protect them from seizure in the event of war, and the emphasis appear in the opinion, "in the event of war".

At page 5, if your Honors please, which is 7 of the German book, at the bottom of page 5, they sum up with respect to steps to be taken after the sales organization, - the last paragraph.

"This survey shows that the risk of seizure of the sales organizations in the event of war is minimized if the holders of shares or similar interests are neutrals residing in neutral countries. Such a distribution of holdings of shares or other interests has the further advantage of forestalling any conflicts troubling the conscience of an enemy national who will inevitably be caught between his patriotic feelings and his loyalty to I.G. A further advantage is that the neutral, in case of war, generally retains his freedom of movement, while enemy nationals are frequently called into the service of their country, in various capacities, and therefore can no longer take care of business matters."

And then at the bottom of page 6, which is page 9, at the beginning of the last paragraph, after further discussion they say:

"The adoption of these measures," that is, the transfer of shares to neutrals, "would offer protection against seizure in the event of war, although this protection may not be a complete one."

On the next page they indicate what steps shall be taken to protect their stocks from seizure, and they outline a system of pledging the stock in favor of a neutral bank. They proceed, of course, to discuss claims, then, with patents, and with respect to patents:

At page 11, if your Honors please, page 16 of the German book, the second paragraph on the bottom, they are discussing transferring patents to a foreign corporation.

The costs, however, of transferring our present foreign patent holdings to a neutral company would admittedly be considerable. The establishment of such an intermediate, neutral company would, of course, make sense only if the entire present foreign patent holdings of I.G., amounting to some 28,000 patents, could be transferred to that company. The cost of a patent transfer must be estimated at approximately RM.10.00 per patent. This would result in a total expenditure of RM. 280,000, payable mostly in foreign exchange.

A little further down, "the transfer of patents to a foreign corporation would not afford even a reasonable degree of protection against the danger of seizure in the event of war."

Now that, as indicated, was the opinion of the Farbon legal committee which is submitted to the commercial men and the men listed.

As prosecution Exhibit 1021, we offer NI 2796 A, which is an interrogation of Dr. Kuepper, of Farben's legal committee, with respect to the previous document. At page 15, which is page 20, Dr. Kuepper, is asked:

"Q: Who presided at that meeting?

A: Mr. von Knieriem."

A little further down:

"Q: To what extent, if any, did Dr. von Knieriem participate in this meeting?

A: I do not exactly recall what he said but he approved the recommendations made by the reports of Dr. Kersten and myself."

He is then asked why von Knieriem didn't get a copy of the minutes, because on page one his name does not appear on the distribution list.

At the bottom of the page he says "that was not necessary because he had presided at the meeting concerned and was already in possession of the report and of the minutes of that meeting."

The next page, the answer, third from the bottom, you will note, Dr. Kugler's name is mentioned.

And the last question:

"Q: Do you recall discussing this subject with von Schnitzler around this time?

A: Yes, along general lines."

As Prosecution Exhibit 1022, we offer NI 4923. This is a memorandum of 22 July 1938, written by von Rospatz, a member of the legal staff of Farben, on the measures to be taken with respect to particular subsidiaries in the event of war. At page 17, I call attention to the opening part "Safeguarding measures for the case of war." They discuss particular countries, and, as to Belgium, you will notice they began as early as October 1938. To start camouflage measures, and the rest of the document has details as to particular companies.

As Prosecution Exhibit 1023, we offer NI 5769. It's a letter from I. G. Farben 26 June 1949, to the Reich Ministry of Economics, on the safeguarding of the foreign sales companies, indicating that a trustworthy neutral transferee has been obtained to hold the stock in certain foreign subsidiaries which are particularly in danger. At page 25, which is page 31, I call Your Honors' attention to the second paragraph beginning with:

"The September crisis of last year....."

That's September, 1938.

"...has again induced us to submit the question of the safeguarding of participation in our foreign sales companies to a thorough examination, above all, in the countries of the British Empire. We arrived at the conclusion that, in many cases, the existing construction requires improvement and that, for reasons of taxation as well as in consideration of the possibility of European conflicts, it is necessary to undertake a reorganization on the following lines:"

And then they go into the detail of how to reorganize the foreign companies,

At page 27, which is page 34 of the German, in the middle of the page of the big paragraph. After talking about an arrangement with a Dutch company:

"It is a question of excluding the danger of sequestration in the event of political complications and of measures of ensuring the maintenance of the representative organization during any time of crisis.

These aims are to be achieved...."

That's 34 of the German.

"...as explained in detail in our above-mentioned Application of the 12th, by the conversion of the representative organizations to a Sole Importer basis. In order to complete the severance from the I.G. (from the legal point of view)...."

They propose certain steps.

We emphasize their reference that the severance is only from a legal point of view.

As Prosecution Exhibit 1024, we offer NI 8496. It's a letter from L. G. Farben to the Reich Minister of Economics on 24 July 1939, reciting what Farben's methods were to camouflage its empire abroad. At page 29, if Your Honors please, the second paragraph. 24 July 1939.

"During our negotiations you pointed out"

That's the Reich Ministry of Economics.

"...that you felt rather doubtful about approving the plans which we suggested for the reorganization of our foreign sales companies, because no provision is made for a legal tie between...."

indicating the companies

"..... and our company on the other hand, which arrangement would have enabled us to have direct access to the assets which are to be transferred to Chemnig.

"However, the absence of such legal ties seems to us to be important if the aims, pursued by us in the reorganization of our sales companies, are to be achieved. May we point out in this connection, that during recent years we have had to introduce more and more changes in relationship between our firm and our foreign sales companies, in order to avoid disadvantages as regards taxation, or, again, in order to eliminate the danger of sequestration in case of war."

And the last paragraph on that page:

"The continuous watch which we have kept on the legal structure of

our sales system broad, and the necessity, in view of political tensions, of paying special attention to the protection of our interests in case of a conflict with other powers, have convinced us that even the structure no longer offered the necessary protection in those countries which were specially exposed to danger."

And at page 31, I think I'll turn over to page 33, if Your Honors please, which is page 49 of the German book. The conclusion of their opinion. This is their letter to the Reich Ministry of Economics:

"For these reasons we have come to the conclusion that real protection of our foreign sales companies against the danger of sequestration in wartime can only be obtained by our renouncing all legal ties of a direct or indirect nature between the stockholders and ourselves, which at present give us the right of access to the stocks of our sales companies, and replacing these legal relations, by transferring the right of access to these assets to such neutral agencies as by virtue of their personal connections with us of many years standing, in some cases even covering decades, will give us the absolute guarantee that in spite of their complete independence and neutrality they will never dispose of these assets otherwise than in a manner entirely in accordance with our interests. This guarantee continues to exist even in the case of unforeseen technical or political complications rendering a discussion with us temporarily impossible, a discussion which in view of our friendly relations, would normally be a matter of course."

and then they give some illustrations of how this thing of substituting non-legal ties and relying on personal trustworthiness is operated, and, at the bottom of the page they begin:

"As an example for the fact that the only effective protection of our interests lies in the personal trustworthiness of our business friends abroad and not in legal obligations whatsoever, we shall only quote the following incident":

And they give an incident of the first World War where Mr. Metz,
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an American citizen, stakes his entire private property, without being asked to and without any legal obligation, in order to buy the assets, and particularly the patents, belonging to the Hoechst Farbwerke from the American sequestrator and, after the end of the war, in return for his expenses, placed them again at the disposal of a constituent company."

That is Farben's description to the Reich Ministry of Economics on their proposal and how it had operated in the past.

As Prosecution Exhibit 1025, we offer NI 7078. This is a letter from Farben, of 12 August 1939, again to the Reich Ministry of Economics, stating that the measures to be taken to protect foreign sales companies against seizure will in no way impair Farben's decisive real influence. At page 37 - this is August, 1939 - in the middle of the page, which is 53 of the German:

"We declare that we shall have unrestricted influence upon the foreign companies, even after the carrying out of the measures aimed at and that we are prepared and in a position to insure, that all foreign values on hand will be delivered to the Reichsbank either directly by way of the export-proceeds or via Stockholm as indicated in our proposals."

And then, the last paragraph:

"We, declare, moreover, that the decisive real influence we shall have on the foreign sales companies even after the carrying out of the new measures, will be sufficient in every respect to answer the requirements of the German governmental and party authorities with regard to personnel and political questions."

Your Honors will see later on, when we come to the official decree of the financial authorities of the German government, that they almost contain the same wording of the Farben scheme of camouflaging.

As Prosecution Exhibit 1026, we offer NI 6121. This is a circular memorandum of the Reich Ministry of Economics of 9 September 1939, to the Directors of Foreign Exchange Office instructing them to permit

camouflage of private German assets and indicating that it would be advisable for the parent companies to renounce all formal and legal ties so long as they could retain control of the subsidiaries in question. Now, at page 41, which is page 58 of the German book, you will note, in the middle, they are discussion protection of German assets abroad, and, at the bottom of the page:

"In view of the present international situation, it will be necessary that companies and enterprises abroad which, in accordance with the provisions of the German General Order are subject to German Foreign Exchange Control, be cloaked by their German Main Companies."

This is the government decree.

"It is a matter of urgent concern that these companies be seasonably and effectively cloaked so that they will be able to continue to serve, so far as possible, as strongpoints for German foreign trade."

And a little further down:

"In many cases it will therefore be advisable to abandon preexisting, formalized, legal ties with their German parent companies if the parent's actual control, ensured by other means, remains strong enough to safeguard its interests."

And at page 44, still the same document, which is 62 of the German, under "application procedure"..... The preceding part of the document indicated that German firms had to get a license from the Reich Ministry of Economics or other agencies, and then this provision.

"All files relating to matters mentioned in this circular are to be classified as 'Top Secret'."

Now, the next string of documents, if Your Honors please, relate to the legal camouflage with respect particularly to the American General Aniline and Film Company, the so-called American I. G. Company. We believe it necessary to make some statement in connection with this evidence. We are informed that the American General Aniline and Film Company, which is now in possession of the Alien Property Custodian in the United States, the question of ownership and German participation may be the subject of litigation in the States or some other country, and we are informed that one of the issues in that case may be the question of ownership of the stock and the influence -- German or non-German -- in that company. That question is entirely collateral to anything we present here, and we have no intention because, in our view, it's not at all relevant, to discuss that question of ownership and nothing that we present here is to be construed as touching upon that question. Our sole purpose in presenting these documents is to indicate an intention to take certain measures in the event of war or to carry on war. It's merely to prove action to do something in the light of a coming war or while the war was going on. The details of ownership, etc., in our view, is not relevant to this proceeding.

THE PRESIDENT: Mr. Prosecutor, is it your view that the conduct of Farben for the protection of its foreign or international investments in the event of a possible war was any different or may be distinguished from the conduct of large corporations generally that are engaged in international commerce and, in anticipation of the possibility of war, take steps to protect the interests of their investors? What I have in my mind, I can get pretty well this story as you go along of what Farben did. What I am particularly concerned with is how that measures up with the conduct of a comparable corporation, if you can find it, engaged in broad scale business in foreign countries, that take steps to protect its property rights and the interests of its investors in the event of the mere contingency of war?

MR. AMSHAN: In our view, if Your Honors please, this is a little more than a merely legal problem that is given to lawyers to protect the interest of their client. In our view, what we say, is the entire Farben organization was participating in plans and preparation to wage aggressive war. They were doing certain things on the production end, and certain things on other ends. This, in our view, the legal part that they were taking, was just part of their general activity that they saw war coming, they did nothing to get out but, on the contrary, put the resources of their entire organization and cleared the decks for action. Now, it just so happened that since they were ready to stake their entire resources, in our view, as the evidence shows, into the preparation of this aggressive war, this is just a part, one of the factors of their general activity toward that preparation. Now, it just so happens that this is an isolated segment, in a technical field of legal problems - not a private attorney dealing with private assets of a client. It is the entire resources of Farben that we say were put to the use and the preparation of this aggressive war and, as a natural part of the preparation and activity, there was this foreign empire. Which was a power, and the necessary power in preparing and waging war.

THE PRESIDENT: I am sorry I have interrupted you. I just want to offer this further observation, that, assuming your theory to be sound, that all of this put together was in preparation for an aggressive war - that, after all, is the ultimate conclusion that you would draw from many isolated facts and circumstances that you have shown or expect to show from the evidence. Now, I was just wondering if this type of evidence really has any probative value as a step that would justify or warrant that sort of a conclusion, and my wonder was based upon whether or not what Farben did, as disclosed by the documents that you have already introduced in Book 50, can be distinguished from what might reasonably be expected of any large corporation that had foreign interests. Was there anything iniquitous, anything corrupt, anything

out of the ordinary, is just what was going through my mind about it. Conceding that it would be prudent, of course, for a large corporation with these investments, to anticipate all kinds of contingencies and fight against it. Now that was the only thought that I had in mind. Don't let me interrupt you

MR. AMCHAN: That's perfectly all right, Your Honor. We prefer to have any doubts brought into the open session rather than to have them in chambers. Now the significance of these particular measures lay principally in the timing. The particular time and the fact that they took the initiative to do certain steps of a legal nature indicate, in our view, certain knowledge that certain events would probably happen. Now, I think it's a little different from what an ordinary lawyer would do. When events were at such a stage, he gets a legal problem presented to him and he, of course, proceeds along similar lines, but we cannot disassociate, in our view, this activity from all other activities of Farben, and it's just one other activity of the General Farben empire, indicating that it had knowledge, or is presumed to have had knowledge, that a certain political policy was leading to war and with that knowledge - and that's why I stress the timing - they took certain steps. Now, of course, any other firm engaged in international business, when they see political events are at a point where it calls for legal protection, would do the same thing, but these people, as we charge, were doing something which brought this on and their initiative at these particular times, we think, is significant from the point of view of knowledge.

THE PRESIDENT: Very well. Don't let me burden you further with any statement. I was just curious to have your view about it.

MR. AMCHAN: That also gives me a chance to do a little more reflecting too.

As Prosecution Exhibit 1027, we offer NI 8496 - 8498, I'm sorry, and it's an extract of some minutes of a discussion in April, 1938 at Basel as to what to do with I.G. Chemie in Switzerland. Now, at page

46, which is page 67, three lines up from the bottom, and I might call attention to the date of the conference - March 31, 1938, after the invasion of Austria:

"From an American point of view, any strong voting power or a strong influence through stockholders of I.G. Farben is considered undesirable. So the question arises how this influence can be reduced while maintaining the rights of the German share-holders."

And then they give preliminary views on the steps to take.

As Prosecution Exhibit 1028, we offer NI 5773, a letter from Farben's representative in New York to the defendant Hurster on 13 September 1939. At page 49, if Your Honors please, which is page 70. This is right after the invasion of Poland. Second paragraph:

"Assuming that the war will last for a considerable time, it is to be expected in any case that the United States also will join the enemies of Germany, possibly sooner than expected.

"Even without taking the experiences of the last world war into consideration, it is our most urgent task to safeguard German property here at the earliest date and in the best possible way."

Then, at the end of the next paragraph, they say:

"A second task to the same end consists in the speedy transfer of German patents and license agreements to American or Scandinavian firms."

Indicating that they propose to do.

As Prosecution Exhibit 1029, we offer NI 5770. It's a letter from I. G. Farben of 17 November 1939 to the Foreign Exchange Department of the Reichsbank, indicating the necessity for the sale of certain American assets. At page 51, which is page 72, the second paragraph. This is Farben writing to the Reichsbank:

"As we informed you over the phone at the beginning of this month, we have been trying hard, since war broke out, to sell our participations and securities in North America to friends in neutral countries and, so far as we are not interested in retaining the property,

in the free market against payment in Foreign Exchange."

And then they list particular transactions.

As Prosecution Exhibit 1030, we offer NI 5768. It is a letter from I. G. Farben to the Reich Ministry of Economics of 15 May 1940, indicating the measures which Farben proposes to take for the purpose of safeguarding General Aniline and Film Corporation and requesting the Reich Ministry of Economics for approval of such measures. At page 54, which is page 75 of the German, second paragraph, they recite their relationship to I.G. Chemie:

"...we have, as you know, created points of support for our export through special arrangements in various countries, including the United States. Our U.S. points of support have been up to now the General Aniline Works and the Agfa Ansco Corporation subsidiaries of the American I. G. Chemical Corporation; these companies have recently been merged into the General Aniline and Film Corporation."

And, at the next page, 55, which is 76 of the German, Farben writing to the Reich Economic Ministry:

"We and our American friends are most anxious to prevent that forcible action on the part of the American authorities which would enable our American competitors to gain possession of these companies and thereby, as it happened during the World War, obtain the results of our experience."

And in the middle of the next paragraph:

"The difficulty of the present situation is that the American company is considered excessively dependant on Switzerland, with the inference that the Swiss company is too strongly obligated toward the I.G. so that the American company can be regarded as being under German influence."

And they propose what measures shall be taken to Americanize the company.

At page 56, which is 77, in the middle of the first paragraph:

"We know from previous experience that our American friends are handicapped in their work for us by the existing links and believe that

we must help them in the defense of our interests by carrying out the measures described above which they have recommended to us."

And then they stress the urgency of the matter, and on the next page, which is page 79 of the German:

"The urgency of the matter is moreover stressed by the fact that we have decided to safeguard further parts of our extensive patent holdings in the USA by selling these patent holdings to the General Aniline and Film Corporation."

As prosecution exhibit 1031, we offer NI 5771, a letter of I.G. Farben to the EconomicBanking of 11 June 1940, explaining the transfer of shares of I.G. Chemie, the Swiss company for the purpose of Americanizing the General Aniline and Film Corporation. It is detailed and there will be no use or purpose in reading it now.

As Prosecution Exhibit 1032, we offer NI 5772, a letter from I.G. Farben to the Reich Ministry of Economics of 11 June 1940. Again in connection with the General Aniline and Film. On page 61, if your Honors please, which is page 84 of the German, the first full paragraph:

"The entire transaction has been worked out in agreement with the competent Reich authorities and has in the manner described above been approved by them, as they are vitally interested in the safeguarding of our American interests, which is most important from a political-economic point of view, and also in the foreign exchange receipts which will accrue from the sale of I.G. Chemie shares to Switzerland."

At the bottom of the page, three paragraphs up, which is 85 of the German:

"The conversion must be made in such a manner that the Laenderbank (that is the I.G. house bank) takes over the new shares at a fixed price, which has not yet been determined, and which is only of theoretical interest because of the subsequent use of the shares for conversion purposes, and then by using these shares handles the conversion transaction for our account."

Now I call attention to the use of a third party, a dummy so to speak, and they state that to the Government authority, and the paragraph above that I read, where they refer to a political-economic point of view as being a factor in the transfer, which to our minds suggests that is something which an ordinary business transaction does not have in mind, and it suggests to us that when they take the political-economic approach to a certain legal transaction in relation to everything we have mentioned, it does fit into a participation with a political policy of the government.

directed towards the ends which we say they were.

Now on page 62, which is 86 of the German, the last paragraph, we just call attention to the fact that the Vorstand of I.G. Farben is involved with a reference that he will be called upon to take action in this matter.

As Prosecution Exhibit 1033 we offer NI 6166. It is a letter of I.G. Farben to the Reichbank, same date, 11 June 1940, describing the new arrangement with respect to I.G. Chemie and the General Aniline and Film. Page 64, which is page 90, the second paragraph from the bottom:

"We confirm that after completion of the transaction, which we shall commission the Deutsche Laenderbank A.G. to carry out, the I.G. Chemie shares remaining in Germany will be transferred to the Deutsche Laenderbank A.G. at their present value, i.e., at prices recently paid by the Deutsche Goldbank, because, for reasons explained to you verbally, we deem it of value to be able to prove at any time that we, ourselves, have at no time been owners of I.G. Chemie shares."

As Prosecution Exhibit 1034, we offer NI 5767, this now is a letter from the Deutsche Laenderbank, the intervening dummy, as I designated it, to the Reich Ministry of Finance. It is dated 7 August 1940 and indicates the necessity of giving the General Aniline Film Corporation the character of an irreproachably non-German Company. On page 66, which is 93 of the German, three lines from the bottom:

"Briefly the motives were as follows: (Describing this transaction)

"The American interests of the I.G. Farben industrie are based mainly on its American patents and on its relations with the General Aniline and Film Corporation, the former American I.G.. In view of the possibility of war suddenly breaking out between Germany and the US, these interests might be threatened. It was a question of giving the General Aniline and Film Corporation the character of an irreproachably non-German company so that it would be possible to transfer to it the most important American patents of the IG Farben-industrie and at the same time, to

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prevent the General Aniline and Film Corporation from being regarded as a company essentially under German influence and from being treated accordingly, which might have led to the complete destruction of the relations between the IG Farbenindustrie and the General Aniline and Film Corporation (especially the extensive technical collaboration with its corresponding profits for the IG Farbenindustrie, and also the export trade) and to the overrunning of the IG Farben industrie's American position by competitors.

"For the purpose of 'Americanizing' The General Aniline and Film Corporation, the ties between the IG Farbenindustrie and the IG Chemie Basal, the principal stockholder had to be loosened considerably."

And then they go into the details of how they effected the loosening.

Page 69 of the same document, the last paragraph, page 95 of the German:

"We must expressly point out that at the request of the authorities the exchange in question must be treated as strictly confidential where foreign countries are concerned and public mention of it must be absolutely barred."

Your Honors will also note a copy of that letter went to Dr. von Weierich, the defendant. These are the documents relating to Farben's activities in camouflaging or attempting to camouflage the General Aniline and Film.

The remaining documents deal generally with the camouflaging measures taken with respect to other countries and in general they are letters after the event, describing what transpired before.

As Prosecution Exhibit 1035, we offer NI 2746. It is a report of IG Farben to the Ministry of Economics of 26 September 1940, entitled "Safe-guarding the Latin American Sales Companies;" And in this report they state that in 1937 when the danger of a new conflict became more and more apparent, Farben intensified its camouflage measures to prevent seizure by enemy custodians. There is a lot of interesting detail which I

shall not go into, which deal with every individual country and describe specifically what steps they took to camouflage their assets in those countries, how successful they were, and I would like to direct Your Honors attention particularly to the timing, the dates when all of those happened.

As Prosecution Exhibit 1036, we offer NI 2746-a. There is an error in the table of index, it is 2746-a. It is a letter from the Supervisory Office of the Chemical Industry addressed to Farben of 7 August 1940, re further camouflaging of the German companies in foreign countries. Now the letter from Farben NI 7 office to the Commercial Committee, 14 August 1940, is indicating or advising of the intention to discuss camouflage problems at a meeting of the Commercial Committee, page 84, if your Honors please, which is 132 of the German. This is a draft of the proposed reply to a government agency, and I call your attention that a copy of it went to the defendant, von Winterien, page 82, and the end of the document at page 83 contains a letter or ruling of the Foreign Office of the Nazi department. Now there was conflict going on. The Foreign Office of the Nazi department was against camouflage. For political reasons, they preferred to have things in the open, and Farben on the other hand, despite the objections of the foreign office, insisted on camouflage, and they were able to persuade them that it was better to camouflage their empire abroad. The reply made by Farben to the Foreign Office of Nazi party. I shall not quote.

As Prosecution Exhibit 1037, we offer NI-2746-B. It is an affidavit of Dr. Kuepper of the Legal Committee of Farben, re the preceding document 2746, and in that affidavit he indicates that although the previous document is designated as a draft, the document containing substantially the substance of the draft which is in evidence, was, in fact, forwarded, to the Reich Ministry of Economics.

As Prosecution Exhibit 1038, we offer NI 8646. It is memorandum again of Dr. Kuepper of 2 October 1940, and is with regard to camouflaging of German agencies abroad and he indicates the purpose for which the

camouflaging was under-taken and how successful they were.

Now at page 87, the second paragraph, which is 128 of the German, he indicates the considerable advantages which Farben got from this camouflage.

As Prosecution Exhibit 1039 we offer NI 8646-a, which is an affidavit of Dr. Kuopper, relating to the preceding document, and at page 96 if your Honors please, which is page 145, the first paragraph, he says:

"I have been shown a copy of a document identified as No. NI 2652 on the subject camouflage. "Now 2652 is the same document which we identified as 8646, administratively 2652 was later given NI 8646. I mention this discrepancy at this point that I am referring to the same document which has been offered in as Exhibit 2652. The second paragraph from the bottom:

"I definitely recall that Dr. von Knierim was present at the meeting of the committee at the time this paper was read and that he participated in the discussions that followed the reading of the report."

This report incidentally is rather full and states what their experience was with respect to the measures taken, and then the last paragraph:

"After the report was read and discussed in the committee, it was generally approved and no objections were made. Such action is considered by the members of the Legal Committee to constitute an approval of past action and authorization to continue along similar lines in future action."

That concludes, if Your Honors please, the documents in book 50.

THE PRESIDENT: You need not start on the next book until this afternoon. The Tribunal will rise for its noon recess.

(The Tribunal adjourned until 1330 hours.)

AFTERNOON SESSION

The hearing reconvened at 1335 hours.

THE MARSHAL: Persons in the Court room will please find their seats.

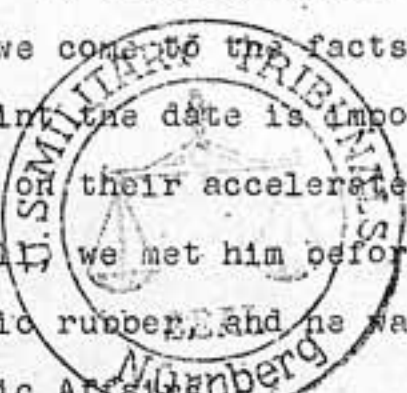
The Tribunal is again in session.

MR. AMCHAN: Document Book 51, if your Honors please.

THE PRESIDENT: Counsel may proceed.

MR. AMCHAN: In the latter half of subdivision H of the indictment, beginning about paragraph 74, the charge is made that Farben not only protected its foreign holdings but prepared and carried out plans whereby they would reap the spoils after aggressive acts and expand its empire at the expense of each invaded nation. The documentary proof which is contained in Book 51 relates mainly to Farben's activities at the time of the Austrian crisis and the Czechoslovakian crisis, showing the plans they made to take advantage of the political situation and the aggressive acts for Germany and the document book concludes with Farben's plan for the new order of the European continent which it submitted in 1940 to the German Government officials.

As Prosecution Exhibit 1040, we offer NI-4024. This is a plan submitted on 9 April 1938 by Farben to Keppler, the German official in charge of economic affairs in Austria, and the letter sets forth in general the Farben plan for the new order for the chemical industry of Austria. It is of April 9, 1938. We shall discuss this document a bit more in detail when we come to the facts, particularly as to Austria. At this point the date is important in relation to our general approach on their accelerated activities and Keppler, as you recall, we met him before in 1934 in connection with synthetic rubber, and he was Hitler's plenipotentiary of Economic Affairs.



As Prosecution Exhibit 1041, we offer 388 P.S.

These documents are the military orders and preparations extending from April 1938 through October 1938, relating to the military preparations with respect to Czecho Slovakia.

DR. VON KELLER: Counsel for the defendant, von Schnitzler:

Mr. President, I am not in a position to see the relevancy of this document 388 P S. I must object to the submission of this document. Counsel for the Prosecution has just stated that with count I-H, he wants to explain the activity of I.G. Farben. There is, however, no connection between the document 388 P S and the defendants in the dock. This document contains 162 pages in which neither the name of any one of the defendants is mentioned nor the firm of I.G. Farben, and not even one of the companies affiliated with I.G. Farben. The document first of all is an order by Hitler, and secondly it represents works of military agencies with reference to the commitment of military forces, as to when and how and what forces have to be made ready and how they have to operate in a given case. This is a General Staff work. Here the Prosecution goes over from the commercial sphere with which it has dealt so far into the military sphere.

I don't think the relevancy of the document can be deduced only from the fact that the origin of the document from a historical point of view falls in the same period with which the Prosecution is concerned in dealing with I.G. Farben.

There have been numerous historical facts during those days. As far as I can see, the Prosecution has so far neither maintained that the defendants participated in the preparation of this document nor that they had access to this document.

In other words, the defendants could have no knowledge at all of this document. Nor do I believe that the Prosecution does maintain that any one of the defendants on the basis of this document has taken any measures whatsoever.

THE PRESIDENT: The document purports, from the Index before us, to consist of some 84 pages. Manifestly, we are not at this time familiar with the contents of the document, but we feel that we should accord to counsel for the Prosecution an opportunity of stating to the Tribunal the theory upon which perceives that the document is competent evidence in this case.

MR. AMCHAN: This document, if Your Honors please, set forth the political and military planning covering a period from April 1938 through October 1938, with respect to each successive stage and manner of action to be taken against Czechoslovakia. The purpose of offering this document is to show what the political activity was at that time, and its relevancy consists, in our view, when we show activities of the defendants in the production sphere along lines leading to preparation, from which inferences may be drawn as to the relationship between the particular activities of the defendants in line with the political decisions that were being made.

Now, none of these defendants were present at these conferences—true. The activities on the political level, which is set forth in these documents, have a relevancy when you consider the accelerated activity of the defendants and the particular time that, in our view, we think we ought to be able — and it is relevant -- to indicate a comparison between the activities of these defendants leading to the inferences we suggest, that there is some connection and some knowledge on the part of these defendants with respect to their so-called commercial activities and the

political decisions that were contemplated, as set forth in these documents.

THE PRESIDENT: Does the Prosecution expect to offer evidence to show that any of the defendants had knowledge at the time of any of the activities -- political activities, military activities -- that are covered by this document?

By that I mean actual knowledge or such circumstances as would support a reasonable inference of knowledge?

MR. AMCHAN: Certainly the latter, and we think some of the documents that have been introduced may not show actual participation in these high-level conferences. We will not show actual participation in these high-level conferences. But we will show activities and correspondence by these defendants to government officials from which the inference, we think, will be quite clear that they must have known that these political decisions and actions were contemplated; and in some letters that have been offered already -- or will be offered -- the consequence, I think, will be rather clear that the activity they took has meaning when considered in the light of the political activity and decisions which were contemplated at that time. For instance, to illustrate, we refer to the accelerated increase of production of Losantin tablets, a decontaminant for poison gas; and we indicated at the time the tremendous increase in the production. Now, that date was around this period. And there is one of the documents here just around the same time orders on a military level for exercises for decontaminating areas with prospective poison gas. That is just an illustration of the relevancy of bringing in the political decisions.

On the other hand, these defendants participating in supplying the armed forces to carry out the military decisions and the political decisions which these documents represent.

One more observation, if Your Honors please. Of course, we have established the high governmental position of the defendant Krauch,

and in the execution of these political tasks the inference is quite clear that the administrative end had to go to Krauch. Now, when these defendants performed certain activities, and you read that in the light of the political action and military action decided, I think it entirely relevant that may lead to inferences that these defendants are charged with knowledge of these military and political decisions.

THE PRESIDENT: Of course, I think counsel would agree that it would be incumbent upon the Prosecution to show something more than a mere coincidence of events. By that I mean that some act of the defendants -- individually or as a group -- simply coincided as matter of time with these political and military activities. I assume, also, that counsel is familiar with the fundamental rule that where two inferences may be drawn from circumstances -- one of which is consistent with innocence and the other is consistent with guilt -- that the trier of the facts is supposed to draw the inference that supports the conclusion of innocence, rather than guilt.

Now, we may say to all of counsel that unless we can have an admitted or conceded understanding on the part of counsel as to what this document purports to establish in its relationship, we are not in a position to pass finally on its admissibility. We would have to study it; we would have to take the time to have it read to us or to read it ourselves.

The Chair is inclined to the view that on the statement of counsel for the Prosecution we might commit an error by excluding the document at this time. It might be the better course to admit the document subject to a subsequent motion on the part of the Defense at the conclusion of the Prosecution's evidence to strike the document from the record, if, at that time, they have not connected directly or indirectly all, or at least one, of these defendants with knowledge of the matters covered by this exhibit.

It is the judgment of the Tribunal that on the state of the record up to this time it is impossible for us to determine whether or not this exhibit may, in due time, be competent proof or not. In other words, to pass on that we would have to take time out from the trial of this case, familiarize ourselves with the contents of it, and then we would also be in a situation where the evidence as indicated by the Prosecution might connect one or more of the defendants.

The Tribunal is going to overrule the objection and admit the exhibit in evidence with this observation: That unless there is direct or circumstantial evidence to establish a connection of knowledge on the part of at least one of these defendants with it, it will receive no consideration in the final determination of this case. That is the best we can do, under the circumstances, without unduly delaying this case to make a collateral inquiry as to the contents of the document, and then having even to postpone a ruling until the Prosecution had had an opportunity to connect the defendants with it.

I trust that counsel for the Defense understand the circumstances under which we are permitting the exhibit to go in evidence.

DR. VON KELLER (Counsel for defendant von Schnitzler): Yes, Mr. President.

DR. PRIBILLA (Counsel for defendant Lautenschlaeger):

Mr. President, may I make an observation of a technical nature in connection with this problem? Naturally, I understood the decision of the Tribunal completely. The Tribunal cannot make any different decision because just as little as we are, it is not in a position to read the entire document which numbers 162 pages. Do let me say, however, in connection with this document that it was part of the first trial in Nurnberg; the military tasks on Czechoslovakia are already part of the first judgment of the International Military Tribunal, and simultaneously these facts have become history.

I intended, with my observations, to make a suggestion to the Prosecution. It is my opinion that in cases like that one could just

submit one, two, or ten pages of such a document which show the connecting link -- if such a connecting link exists. The Defense is confronted with the same difficult position as the Tribunal. Every conscientious Defense counsel will sit down at night and look through this entire document, page after page. I believe that is quite clear that much time will be lost by that procedure to all of us, and perhaps my suggestion will serve to bring to the attention of the Tribunal that not books should be submitted but only relevant portions of such documents.

THE PRESIDENT: Since counsel for the Defense has made the observations that we have just now received, I may say on behalf of the Tribunal that we have wondered why this record should be burdened with this lengthy document, in view of the findings contained in the judgment of the I.M.T., of which we take judicial knowledge.

MR. SPEECHER: Your Honor--

THE PRESIDENT: I may add, that is on the assumption that the document is what we now think it is. There may be something in it that goes beyond that, but if it is what it purports to be, and what this discussion has suggested that it is, it just occurs to us that it is loading this record with a lot of surplusage with respect to matters of which the Tribunal would be bound to take judicial knowledge without having to consider this lengthy document, having to be worried about the fact of whether we were overlooking something.

We just suggest that to counsel; there is nothing before the counsel. If the Prosecution would have something to add to this conversation, we would be glad to listen.

MR. SPEECHER: This, we have felt, is a matter we wanted to bring to your attention: the matter of judicial notice. But sometimes the document which lay behind the decisions which lay behind the decisions which the I.M.T. made may be important here in order to give Your Honors a better view of the staging of various operations. We felt in this particular case, since the activities with respect to Austria displayed here, followed upon one aggressive act which was clearly in the minds of all people in all the world -- whether in Germany or anywhere else -- to wit: the invasion of Austria. Whether for good or for worse, it was a use of military force to achieve a certain end. Now, thereafter, certain people in Germany undertook a very cleverly outlined strategic program to step farther in the whole Lebensraum program, and this document here sets forth, no doubt, Your Honors, in very great detail, some of the maneuverings which went on. We think it would be somewhat unfair of us not to give you some of these maneuverings which you could lay side by side with, for example, the conference held in Berlin which the witness Frank-Fahle described which happened in May of 1938; to lay it side by side with the letter which Dieckmann wrote to the Wehrwirtschaftsstab, saying that in case of war where England is

involved what will be the effect of knocking out two English stand-by plants. We feel that by relating these manifold activities of these defendants, and their agents during this time when we are moving from one aggressive act to the next aggressive act, we make out our proof.

Now, there is another element here which, it strikes me, it is important to raise at this time. We not only have a question of knowledge of coming aggressive acts and what a reasonable person in the position of one or all of these persons would deduce, given the functions they were performing. We have the question of ratification of prior aggressive acts and, what we are about to come to, the gobbling up economically of the territories seized by virtue of military force. And in connection with that we did feel, particularly with respect to Czechoslovakia, since the aggressive wars planned covered a rather extensive period of time, following upon the invasion of Austria in March 1938 and going over until March of 1939, when all of Czechoslovakia was finally gobbled up by the Nazis-- that we do lay before you this time-table.

Now, if we don't point out to Your Honors the connections between specific events in that time-table, I think you would be quite at liberty in the exercise of your judicial function to neglect other parts of that document. It may also be that parts of that document may be relevant to Defense counsel. If we do not point out those things to Your Honors and if Defense counsel do not point them out to you--I do not think you have to go further into the document than that.

THE PRESIDENT: Well, in any event the Tribunal has expressed its ideas with reference to the admissibility of this document, and perhaps anything further would be said, as well as what has just been said, by way of argument and had better come at the conclusion of the case.

You may proceed. I hope it will not be necessary for us to

read this document.

MR. ALCHAN: Not the whole 160 pages, but, if Your Honors please, there are about six or seven excerpts which we think are revealing, and I think it is the function of counsel to indicate to the Tribunal such portions of this document which, in his opinion, are revealing in connection with the charges we make.

THE PRESIDENT: Now, just in that connection, we want to accord you an opportunity to call those matters to our attention, but in view of the fact that we are going to give this document a little more than passing attention, I think it would suffice if you would just call our attention to the pages and the paragraphs, and permit us to mark them with pencil so that we can have them in mind when we do go over this document.

MR. ALCHAN: Page 7, if Your Honors please, which is page 102 of the German, under subdivision "Political Aspects" first; then "Military Conclusions. And No. 4, under "Military Conclusions, beginning "Politically the first four days..."

Page 12 indicating what the succeeding page is; and page 13-- that is page 113 of the German--under "1. Political Prerequisites"; under "2.a., dealing with "Political Possibilities for the Commencement of the Action." As a matter of fact, the entire page 14. Page 21, which is 130 in the German, the entire page; and the next page, page 22. Page 23, which is 131 of the German--top of the page, subdivision "B", the "Propaganda War." Page 23 at the bottom of the page. Page 34, fourth paragraph, beginning "However, I will decide to take action against Czechoslovakia." Page 40, at the top: "OKH issues new maneuvers." And then under "2" "New Training Maneuvers." And then under "D" Chemical Defense and Cleansing of Contaminated Areas." It is in that connection that I refer to Losantin. And at page 55. Fifty-five, if Your Honors please, merits some oral discussion because of some documents coming up right afterwards. Fifty-five, which is page 193 of the German. It is Item 25. Page 88 of the German.

This is 18 September 1938...in the middle of this telegram. We might as well look at the whole thing.

"Lt. Col. Koechling is responsible to the OKW. He will be assigned to Konrad Henlein"--that is the leader of the Sudeten Germans--"and he received far-reaching military powers from the Fuehrer. The Sudeten German Free Corps"--we are calling attention to the Sudeten German Free Corps because I shall issue a document shortly showing contributions. Mr. Soracher informs me we already have offered it, but at any rate the document is coming in shortly with respect to contributions prior to 30 September 1938 by I.G. Farben--Schmitz, on behalf of I.G. Farben, making financial contributions to the Sudeten German Free Corps. Now, here is who they are, according to this document. "The Sudeten German Free Corps remains responsible to Konrad Henlein alone. Purpose: Protection of the Sudeten Germans from maintenance of disturbances and clashes. The Free Corps will be established in Germany. Armament only with Austrian weapons. Activities of the Free Corps to begin as soon as possible."

Now, in this document book, at page 119, NI-1318 is directly a part of Farben activity in connection with the Sudeten German Free Corps.

THE PRESIDENT: Now, is that predicated upon the fact that Farben made contributions prior to this to the Sudeten German Free Corps?

MR. ARCHER: I think they made it after, if I am not mistaken; after this date.

THE PRESIDENT: After.

MR. ARCHER: At page 25 of your document book; that is Item 11, No. 6, "Tasks of the War Economy," that entire paragraph indicating the preservation of the industrial strength of Czechoslovakia is a military expediency.

BY MR. ANCHER:

Page 63, the relevancy is this, on September 27, that is Item 33, "the Fuehrer and Supreme Commander of the Armed Forces ordered the movement of the assault units from their exercise areas to their jumping-off points."

Now the relevancy of that, is XI-1747, is already in evidence. It is a letter from Ter Meer, October 11, 1938. We will come to that letter again in connection with Czechoslovakia. In that letter, if Your Honors recall, October 11, 1938, Ter Meer writing to one of the government officials, stated that they had in mind a certain place for a Buna plant, but they could not do anything because that was a jumping off area for the concentration for troops against Czechoslovakia.

We think there is a relevancy when we show an order given on September 27, as to particular areas for assault action against Czechoslovakia, and then two weeks later, an admission in a form of a letter by Ter Meer that they are interested in that area, but did not do anything because they knew - those were his words - that it was a jumping off point, a concentration area for troops against Czechoslovakia, and on the next page, 64, the fourth paragraph, about the Heinlein Free Corps, and two paragraphs down below, it speaks about the Heinlein Free Corps.

I think that those really are the significant pages that we will call attention to now. As we glance through the documents, you can see that the die was cast before September 30, 1938, and all preparations were made.

As Prosecution's Exhibit 1042, we offer XI-10408, which is a report dated 26 July, 1938, re the chemical industry of Czechoslovakia.

DR. SILCHER (Counsel for defendant von Knieriem):

Your Honor, for the purposes of clarification, I should like to put the question to counsel for the prosecution, whether I am correct in concluding that the page numbers which he gave are quite different

from our own page numbers. Sometimes it is 80 in the English book, and sometimes it is 130 in the German. Is it true, therefore, that there are only a few excerpts contained in the English books, in other words, is there less in the English books than we have in our own German copy?

Secondly, I wanted to ask what the exhibit number of Ter Meer's letter is to which counsel for the prosecution has just referred?

Thirdly, I wanted you to take into consideration, after counsel for the prosecution has submitted this document, whether you might sustain the objection we made as to the admissibility of the document already now. For I believe and one might certainly assume that by the present submission of documents, the most incriminating portions - I mean incriminating to the defendant - have been mentioned.

I have tried to listen to counsel for the prosecution very carefully, and all that I have understood about any connection to the defendants was the following:

First, a gift made to the Sudeten German Free Corps, but prosecution has not maintained that that has happened before the date which was mentioned, the 27th of September, and it was neither maintained that this contribution was made in the knowledge of any intended use of the Sudeten-Deutsches Freikorps in that entire action.

The second point in that connection which was raised seemed to be that Dr. Ter Meer in October 1938 - that is after Sudetenland had already been occupied, has expressed his views in a letter to the effect that a certain territory could not be considered for the erection of the Buna plant, because it was necessary for the army.

That is merely a discussion about a question which in the meantime had become a historical fact. I cannot see that any conclusion can be derived from these facts as to a previous knowledge of any one of the defendants with reference to this action. This just cannot be maintained.

MR. AICHAM: On the administrative questions, we shall early tomorrow or late today indicate the corresponding pages of the German document which I called to your Honor's attention.

We understood they were incorporated in the German document book, but apparently it was separately issued to them. In other matters counsel has raised, I believe it is a bit premature at this point to argue the entire connection of this document with the entire evidence. I think the ruling that your Honor has made, is sufficient to apprise us as to what is expected of us with respect to the nature of the proof which will be given consideration.

THE PRESIDENT: Well, the Tribunal has tried to make its position clear with reference to the reasons why this document is admitted in evidence. What counsel for the defense has said is pertinent upon the issue of what weight, if any, it shall ultimately receive at the hands of the Tribunal.

We were prompted to rule as we did, largely because of the fact that we have not had an opportunity to read the document, and we do not want to close a door on the prosecution of showing by evidence yet to be adduced the connection, if there is any connection, between the facts recited in the exhibit and the conduct of the defendants or any part of them, to which it might apply.

If we have erred on the side of admitting the document, because it is not pertinent and not material, we will take care of that matter when we come to considering the evidence in this case, and we would be very happy to have the further observations of counsel with reference to whether or not it should have any consideration when we come to the argument.

The motion will be overruled for the reasons stated.

Now, Mr. Prosecutor, counsel for the defense asked for an exhibit number of a document to which you referred. If you can you should give them that, and if not, will you undertake to see that they get is as

soon as possible?

MR. ANCHAM: I did identify it by NI number, but we will get the exhibit number too.

THE PRESIDENT: Very well.

MR. ANCHAM: I believe that we just offered NI-10,408, as Prosecution's Exhibit 1042, being report 28 July, 1933, and the date we say is significant, about the chemical industries of Czechoslovakia, page 113, which is at page 16 of the German book, and the next page all we call attention to is the names of the plants, Aussig, on page 113, and Falkenau on page 114, and the reason for calling attention to that fact is because, as will subsequently appear, these is a plant which Farben put special interest in, located in Sudeten Germany, and they had commissioners appointed to run it.

The point of this document is that on 28 July 1933, detailed reports on the financial setup of these two plants had been prepared by Farben.

As Prosecution's Exhibit 1043 we offer NI-10725. This is a letter from the commercial committee to the Vorstand members dated 21 September, 1933. The date again, 21 September, 1933, and as Your Honor will see, on page 115, which is page 17 of the German book - this goes to all of the members of the Vorstand, and there is the enclosure of the previous document, the report on the location of major chemical plants in Czechoslovakia, that is brought home to the Vorstand on 21 September, 1933. That also refers to a meeting held days before, about Czechoslovakia - 16 September, 1933.

As Prosecution's Exhibit 1044, we offer NI-3721. It is a letter 23 September, 1933 from the defendant Kuehne to Ter Meer and von Schnitzler re the anticipated acceptance of Farben nominees, Wuerster, and the defendant Ku'ler, as Commissioners for the Czechoslovakian chemical plants.

At page 116, if Your Honors please, which is page 18, the document is set out. Now we think it entirely pertinent to observe, in connection

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with this document, that it certainly relates to that 388 PS that we mentioned, on the 23 of September, 7 days before Munich, that they have approached the Government, and got assurances that they would have commissioners appointed of these two plants in Czechoslovakia.

That, in our view, is significant evidence on the question of knowledge.

As Prosecution's Exhibit 1045 we offer NI-3722, which is a letter 28 September 1938, still before Munich. It is from von Schnitzler to ter Meer, Kuchne, Ilgner and Wurster, about discussions which they had had with state secretary Koppler, about the Czechoslovakia plants.

It is page 117, if your Honors please, which is page 13. You will note the date, 29 September, and the persons to whom it is addressed. The first part of it:

"You are informed about the general principles of the discussion which I have had at the end of last week, that is about the 21 of September,

"with the Ministry of Economics; with Mr. Keppler, Secretary of State, and with the German Economics; with Mr. Keppler, Secretary of State, and with the German Economical Board of the Sudeten-area, as to the situation of the Aussig-Union."

That is the Czechoslovakia chemical plants. That is page 13 of the German book.

"The negotiations have been successful insofar as all parties acknowledged that as soon as the German Sudetenland comes under German jurisdiction all the works situated in this zone and belonging to the Aussig-Union, irrespective of the future settlement of accounts with the head office in Prague, must be managed by trustees, commissioners, for account of whom it may concern. I pointed out that in the first place the works Aussig and Falkenau are involved, and that, at least, the firm Aussig but suitably also Falkenau, should be run exclusively the I.G., and that, therefore, I.G. already now, would lay claim to the acquisition of both works."

A little further down:

"Before coming to an understanding in regard to ownership, it would be necessary to maintain the technical and commercial activity by expert commissioners, and these commissioners can only be furnished by I.G. In accordance with ter Meer I proposed Dr. Carl Wurster for the technical part".

and the defendant Kugler, the defendant Wurster and the Defendant ter Meer. Then you will see further references down there to the Czech-Jewish management in Prague, and how it interferes with their plans. Further reference to Kugler and the other defendants, and at the next page, 118, which is page 20, the author of the letter, von Schnitzler.

DR. VON KELLER: Counsel for the defendant von Schnitzler:

Mr. President, I believe I should call your attention to the fact that this document does not bear the date of the 28 of September, 1938, which is the date I had, but originates from the 29 of September. So far as I know, the 29th of September is the date of the Munich agreement.

MR. AMCHAN: The date of the document as I have indicated, is 29 September 1938. As to the date of the Munich agreement, I will refer your Honor to the finding of the IWT and my recollection is that it was the 30th of September.

Mr. Sprecher confirms that it was the 30th.

THE PRESIDENT: Well the Tribunal can probably resolve that controversy so you may go ahead.

MR. AMCHAN: As Prosecution's Exhibit NI 1318 is already in evidence, as Exhibit 834, this is a note from the defendant, Schnitzler, 22 September 1938, it is four days after that telegram that I referred to in the other document, and he makes a contribution of 100,000 Reichmark to the Sudetengerman Free Corps. Page 119.

I want to call your Honors' attention to the timing of this thing, as well as recall that a few documents, back on 21 September, was the report submitted to the Vorstand of the Chemical Industry of Czechoslovakia. The very next day the reference to the contribution by Schnitzler to the Sudeten Free Corps, and at the bottom of page 119 you will see the distribution list.

Down the line, a further evidence on this transaction, at page 121, which is page 27 of the German.

DR. BACHEM: Your Honor, I should like to point out to you, that the index does not correspond fully with the contents of the documents.

In the index it is merely stated, "contributions to the Sudeten German Free Corps", whereas in the document itself it is stated that in particular, in the letter of the 22nd of September, 1938, "for the Sudeten German Auxiliary tasks as well as for the Sudeten German Free Corps.

Would you please add a question mark to this passage?

THE PRESIDENT: Yes, that has been done.

MR. AMCHAN: A Prosecution's Exhibit 1046, we offer NI 2795. It is a letter from the defendant Schnitzler to Hitler, 30 September, 1938, and the language is very interesting, page 122, page 28 of the German.

It is addressed to the Fuehrer and Reichskanzler Adolph Hitler:

"Profoundly impressed by the return of Sudeten-Germany to the Reich which you, my Fuehrer, have achieved, the I. G. Farbenindustrie A. G. puts an amount of half a million Reichsmark at your disposal for use in the Sudeten-German territory."

A copy goes to the defendant, Ilgner.

As Prosecution's Exhibit 1047, we offer NI 4710. It is a letter from the defendant Schmitz, dated 29 August, 1939. It is a little later, but still before Poland, before General Christiansen, the corps leader of the National Socialist Air Corps contributed 50,000 Reichsmark for the mobilization of the National socialist air corps.

The document is selfexplanatory.

MR. BACHEM: Your Honors, I should like to point out to you that we are not concerned with the letter from Geheimrat Schmitz, but with a letter of the I.G. Farben Industry, which was co-signed by Dr. Schmitz. In addition, I believe, that the statement in the index is not correct, inasmuch as the letter speaks about the military training of the national socialist flyer's corps', and in the index, it says, "mobilization of the national socialist air corps". Would

you please also add a question mark in this instance, and we shall discuss this matter with the prosecution?

THE PRESIDENT: This has been done.

MR. SPRESHER: Your Honors, the prosecution, for the purposes of clarity, will admit that the National Socialist Fliegerkorps, might be better translated, "National Socialist Flyer Corps" and that it was a comparable organization, or organizationally, to the National Socialist Motor Corps, and the storm troops, each one of the three affiliated organizations of the Nazi party performing different functions, as to whether or not they were flyers, as to whether or not they were foot troops.

MR. AMCHAN: The next series of documents in this book, in fact the balance of the documents of this book, relate to the so-called New Order of Farben. About June of 1940 Farben prepared in detail, and submitted to the appropriate German authorities, its detailed plans of how the economy of conquered Europe should be reorganized, in line with the German conception of the Greater Germany, or the New Order, and these documents set forth the activities preceding the formulation of the New Order, as well as the document itself.

As Prosecution Exhibit 1048, we offer NI-6842. It's a memorandum of 19 June 1940 of the Management Division of Farben re: The preparations for the reshaping of the economic relations in postwar Europe. At page 128, if your Honors please, which is page 35. A memorandum for the files. An I.G. memorandum. They refer to a discussion with the Reich Minister of Economics on the subject. They indicate the particular countries as to which the new order is to relate and, in the middle of the page:

"Special attention was to be paid to the cartel relations, the degree to which German firms participate in them, and the extent to which they have developed without German participation."

And in the next paragraph, it refers to the German official who told them "If Farben had any special suggestions to make with regard to the lines on which the manufacture of dye-stuffs was to be organized in future in the countries in question, it would be useful if they would bring them forward on this occasion."

And then it was stated in confidence that a certain gentleman remarks, during the conference that:

"European dye-stuff production after the war would probably be under the management of Farben."

The signer Kufuss, we are informed, was an assistant in the office of the defendant Kugler.

As Prosecution Exhibit 1049, we offer NI-4897, a letter dated 24 June 1940 from von Schnitzler to the members of the Commercial Committee and to Ter Meer and von Knieriem advising them of a special meeting of the Commercial Committee to discuss the program for the future of Europe. It's on page 130. In the middle of the page, the first four lines down:

"I include a copy of the invitation for those gentlemen

who, although not members of the Commercial Committee, are herewith cordially invited to be also present on 28 June."

That is Ter Meer and von Knieriem.

And further down:

"A specific inquiry has been received from the Reich Government requesting that in the shortest possible time a program be developed outlining a system to be established by, and based on...."

Page 38.

"...the impending peace treaty, and covering the entire European interests in the field of chemistry. The problem is being considered not only in regard to the relationship with the countries still at war with Germany, but also in regard to those countries which are allied with Germany or which are still neutral."

June, 1940.

Signed by the defendant von Schnitzler.

NI-6293 is already in evidence as Prosecution Exhibit 818. It's the minutes of the special meeting of the Commercial Committee on the 28th and 29th of June, where they're discussing the plans for the reorganization of European economy. At page 31, which is page 40 of the German, you will note the persons present: Von Schnitzler, Gattineau, Haefliger, Ilgner, Knieriem, Kugler, Mann; Ter Meer, Oster, and at the next page, which is page 41, they're discussing the basis for the new order.

"I.- Establishing economic losses" and they develop the concept of direct losses and then they develop the concept of indirect losses sustained under the Versailles Treaty and the compensation they expect to secure.

At the next page, 133, which is 42, in the middle of the page, they set their objective, to reestablish the

leadership of the German chemical industry which existed before World War I. And at page 134, which is page 43, under the subject matter: "Suggestions by I.G. for economic reorganization", under i. "Question arising from the control system of the enemy armaments industry in the chemical sector and its internal connections". I'm referring to the planning of the committee and later on we shall show what their precise recommendations were in the new order - how to control the enemy armament industry.

"k. Questions regarding the transfer of the legal residence of international cartels and other organizations, and

"l. Procurement of raw materials and questions connected with this."

And the next page, which is page 43 of the German, the countries as to which they are to make specific recommendations of dominance and control. Then further down, two paragraphs from the bottom, the deadline when it should be in.

"An attempt must be made to evaluate and collect material on all questions concerning France by 15 June 1940."

As Prosecution Exhibit 1050, we offer NI-4695. It's a memorandum dated 20 July 1940, entitled "Suggestions for the Peace Treaty", particularly as regards the position of German Reich patents in the European chemical field under German control.

At page 140, if Your Honors please, which is page 46, I call your attention at the top of the page, to the note that this memorandum was transmitted "By order of Dr. von Knieriem". We're particularly interested with the second subject matter dealt with here:

"The position of the German Reich patent in a European economic sphere under German control".

We suggest to your Honors you disregard entirely the discussions under point 1. It's not relevant to the subject matter on this and, in addition, it's technically complicated.

At page 149, which is page 58 of the German, in the middle of the page:

"The position of the German Reich Patent in a European economic sphere under German control.

"The peace treaty will cause far-reaching changes in the political and economic structure of large parts of Europe. One can perhaps assume that under German leadership a Greater Area will be established, which besides Greater Germany will include a number of additional states each retaining its own government. This Greater European Area will represent an economic unit and possibly will later have a uniform system of customs duties and currency. One could not possibly retain this diversity of laws for the protection of industrial rights in such an economically unified area."

Then, in the last paragraph, there is a discussion of the diversity in the patent field and, at the next page, 150, which is page 59 of the German, comes the recommendation of the defendant von Knieriem. Under "Patents.":

"The most complete solution which could be regarded as ideal would be to create one uniform patent for the entire European area under German control by regulating the formal and material patent right by a single law, the development of which would be reserved to the German legislator, and the Reich Patent Office would remain in existence as the only patent authority."

And at the next page, 151, which is page 60, under Item 4, he develops some of the administrative detail in connection with this patent recommendation so as to assure that all

questions will challenge legal and administrative questions as to the validity of a patent would remain under German administrative control.

The next document, if Your Honors please, is the new order itself which is rather lengthy and which I shall, with discretion, discuss at not too great length, and I might suggest that this may perhaps be an appropriate time for the recess.

THE PRESIDENT: That's Document NI-11252?

MR. AMCHAN: That's correct.

THE PRESIDENT: And will have the number 1051?

MR. AMCHAN: That's right.

THE PRESIDENT: We will now rise for our recess.

(A recess was taken.)

MARSHAL: The Tribunal is again in session:

MR. BACHEM: Your Honors, I should like briefly to refer to Exhibit 1046. I have just been speaking to Mr. Sprecher and we have compared the English and German text of this document. The German document says at the beginning, under the impression "unter dem eindruck", while the English says, "profoundly impressed." Mr. Sprecher agrees with me that the word "profoundly" should be omitted in the English text and that it should begin: "Impressed by the return".

THE PRESIDENT: Very well. We have made the correction in our books.

MR. ANCHAN: As exhibit 1051, we offer NI 11252. This contains the New Order of General Fart for France, together with the covering letter dated 3 August 1940, addressed to the Reich Minister of Economics, signed by the defendant Von Schnitzler, copies going to persons indicated. You might see, if Your Honors please, this is a rather long document, and with Your Honors permission I should like to indicate pertinent excerpts of a general nature orally for the reason that the other documents which are also rather lengthy, relating to the new order for Holland, Denmark and Belgium, have the same general pertinent facts but they vary in detail so that it occurs to counsel that if we were to discuss orally the principal new order it would obviate any necessity for referring orally to the particular countries. I shall of course be mindful of Your Honors admonition as to expedition.

At page 155, if Your Honors please, which is page 466 of the German, and page 1 of the German, the document itself and the covering letter, and under paragraph II, which is at page 468, which is page 2 of the German document:

"This major continental sphere will, upon conclusion of the war, have the task of organizing the exchange of goods with other major spheres and of competing with the productive forces of other major spheres in competitive markets - a task which includes more particularly the recovery and securing of world respect of the German chemical industry. In the observations and planning to be made in regard thereto, it is necessary

to bear in mind specifically the shifting and development trends in the international economic forces which resulted from the last war, such as may be seen more and more in the increased influence of the United States in Latin-America, etc."

At the next page, 156, which is 470. which is page 3 of the German, at the top of the page:

"In this connection, thought is given to cartels, capital investments and exchanges of experience. The studies prepared on the basis of this fundamental principle are divided into a "General Part", and a part which is arranged according to specific countries.

"The 'General Part' consists of a study of the situation in the international chemical market prior to the World War, of the situation which developed under the effects of the Versailles Peace Treaty in the years following the World War, and of a brief illustration of the situation of world economic forces which may be expected in the new order of the international chemical market."

And then they indicate that they are going to prepare their version of the new order which the countries listed.

The next page, at page 157, which is page 474, of the German book, page 5 of the original paging in German, under I;

"The General Part" referred to above:

"Pursuant to a request formulated by the Reich Economic Ministry, a compilation has been added to said 'General Part' covering direct damages sustained by I.G. in the form of its legal predecessors and syndicate companies as a result of the Peace Treaty of Versailles."

And then they say how they compute the damages, and your Honors will note the signature of Von Schnitzler in the transmittal letter. Your Honors will also note in the P S to whom copies went, and we call attention to the list of names, Hammen, German Armistice Delegate, and the names which show up in the negotiations with the French Chemical Industry.

The new order of the General Part, appears at page 157, 476 of the

German, page 6 of the original. There are some typographical errors, and with Your Honors permission I will have to read that paragraph:

"General Part:

"The promise for a basic study of both the planning tasks of Greater Germany's chemical industry in the major European sphere and the incorporation of such a sphere in the world economy, is furnished by the realization that, in prewar years, the German chemical industry ranked readily first with respect to both the volume of absolute quantities and values of production in the chemical foreign trade of the world and that by reason of - "This is probably omitted in the copy I have - prewar development trend its productive capacity suffered in scientific curtailment. It was really not only to maintain its outstanding position but also to further improve it. The end of the war with its economic consequences certainly interrupted this clear cut development;

MR. AMCHAN: And that that as a foundation they proceeded to estimate the loss of world business and make recommendations as to what to do. At page 162 which is 487 of the German and 14 of the original paging. In the middle of the first paragraph:

"It will, however, appear all the more justifiable in planning a major European spherical economy, again to reserve a leading position for German chemical industry commensurate with its technical, economic, and scientific rank. The decisive factor, however, in all planning relative to this European sphere will be the necessity of securing determined and effective leadership in the discussions which must necessarily be conducted with the other major spherical economies outside of Europe, the contours of which are already distinctly drawn at this time.

"In order to guarantee that the chemical industry of Greater Germany and the European continent can assert itself in such discussions, it is urgently required clearly to appreciate the forces which, in the world market, will be of decisive importance after the war."

Then the beginning of the next paragraph:

"The principal weight of the discussions bearing on a new arrangement of the world market will rest on the relationship with the North American concerns."

Page 166, if your Honors please, which is 505 and 20 of the German. That's the beginning of the new order for France and it indicates what they intended to do with respect to French industry in re-organizing the European economy. In the middle of the page:

"As a matter of basic principle, therefore, we are of the opinion that the French chemical industry should retain its own existence in the coming new order, but that the artificial barriers which have been erected against

German imports by means of excessive import duties, quotas and the like, should be removed. It will likewise be necessary to base ourselves on the premise that, in general, exports of the French chemical industry should be maintained only by way of exception and insofar as they had already formally been established, that is, prior to the beginning of the world economic crisis, and that French activities should consequently be restricted to the French domestic market."

Page 176, if your Honors please, which is page 538 and page 50 of the German, under Item 7. "Nitrogen and Nitrogen Products." We call this entire discussion to your Honor's attention in view of our discussion and proof in the course of the trial with respect to nitrogen and this is Farben's statement of the history and importance of nitrogen in a peace economy and in a world economy and I suggest to your Honors in reading this portion with respect to nitrogen to keep in mind the other proof in evidence we have offered relating to that chemical.

At page 179, if your Honors please, which is page 551 and 552 of the German and page 57 and 58 of the original:

"Proposals of a general nature with regard to Production and Sales Within the Framework of German-French Relations:

"The preceding survey on the development and situation of the individual branches of the French chemical industry plainly shows that the chief obstacle blocking German interests in the French market was to be found in the field of commercial policy. If, therefore, participation in the French market, the remaining colonies, protectorates and possible mandated territories included, corresponding to the importance of the German chemical

industry is to be built up and maintained, then this aim can be achieved only by a fundamental change in the forms and media of French commercial policy in favor of German imports. With this intention the following is proposed:

"1. Development of a French preferential tariff system favoring Germany."

And then they go down the line with specific recommendations. At page 181, if your Honor please, which is page 558 and page 61 of the German under Item 3:

"CONCRETE PROPOSALS WITH REGARD TO CERTAIN FIELDS OF PRODUCTION"

"DYESTUFFS: In order to achieve a New Order as planned and to compensate in part for damages suffered in and because of France, the best solution seems to be to bring about such regulation of French production and its marketing for all time to come by the participation of the German dyestuffs industry in the French dyestuffs industry so as to prevent further encroachment on German export interests. To this end concrete proposals could be made as for example, I.G. might be allowed to acquire 50% of the capital of the French dyestuffs industry from the Reich."

And three paragraphs up from the bottom:

"The Societe des Produits Chimiques et Matieres Colorantes de Mulhouse, --" Mulhouse is a thing I call to your Honors' attention and the other firm of Mulhouse -- "have been omitted since it is assumed that these firms will go back to the Reich with the return of Alsace-Lorraine."

I refer to Mulhouse at this time or some call it "Mulhouse" because to foreshadow the discussion in connection with the spoliation count on France, particularly Alsace-Lorraine.

At page 182, if your Honors please, which is 561,

page 63 of the German, under "(a)":

"The German-French dyestuffs company or companies only shall be permitted to establish in France new plants for the production of dyestuffs or their intermediate products, or introduce new products into the plants already existing or to expand the latter. In addition the French Government is to issue a decree prohibiting the establishing of plants for the manufacture of dyestuffs and intermediate products."

The general principle as indicated is that permission would have to be gotten from the new German order to construct or erect new facilities in France as your Honors will note later on, in countries coming within the New Order. Then:

"As a general rule the output of the German-French company shall be intended for the French domestic and colonial markets only."

You will note in the next paragraph under "(c)" again a reference to Milhouse that:

"We have written to the Reich Ministry of Economics under date of July 13, 1940, that we have placed a trustee for these companies at its disposal."

Under the reference "Chemicals" on page 563 of the German and 65 of the original paging which is immediately that that they refer to enforcement of a French quota and licensing system in favor of Germany which will have as its purposes that French demands for imports be supplied by Germany only and under "Chemicals" they must summarize their plans of chemicals in a chart and then the next two paragraphs are interesting:

"The granting of preference tariffs to Germany is not only a means of compensating the German chemical industry for damages suffered in consequence of the "

Versailles Treaty and of the trade policy based upon it; it is rather a necessary political instrument to be used in relation with non-European countries which, through a depreciation of their money and through other measures might be able to disturb the commercial agreements to be concluded with France. It must therefore be stressed particularly that the basic tariffs between France and other countries can be lowered only with German approval."

And then the next paragraph:

"One reason, however, for insisting upon preference quotas for basic materials used for military equipment must under no circumstance be revealed during such negotiations. This reason is that our marketing organizations, by gaining first-hand knowledge of the domestic markets of the country in question are thus enabled to determine whether secret rearmament is going on.

The next page, 183, which is 563, and 65 of the German: "Licenses for the construction of new plants and for the expansion of existing facilities are imperative in regard to armaments which are important to the armament industry. We hope that the requiring of licenses for the production of these articles will be supplemented by rigid control of the production itself."

And, in the last paragraph on that page, I call Your Honors attention that they are invoking the cartel system of controlling the economy of these countries. The charts immediately following have a certain significance which I should like to call to Your Honors attention. At page 187, which is 575 of the German, and page 71, under the title Organic Intermediate Products, under the column "E" over on the right. "In addition to the report of the dyestuffs division it is desirable to stopp the production of the following products which are essential for the production of military requirements: Pentaerithrit, Dinitrode-phenylamine, Chloracetophenone, Picric acid, Stabilizers, Special Products." Now, the significance of that, we think, if Your Honors please, is, we have not these particular chemicals before when we discussed explosives and poison gas. This is Farbon's own discussion indicating that in their view they consider these named chemicals as having military importance and needs.

At page 190, if Your Honors please, which is 577 of the German, 72 of the original, under the last item--or next to the last item--Column "E" you will note "Glycol and Glysantin," and we referred to those in the discussion on production of explosives and poison gas. This is their indication of what the potentialities of Glycol are:

"France should be limited to the production of glycol. Construction and expansion of plants should be subject to license because the product is important for armaments."

The next page, 191, which is 581 of the German and 75 of the

original page, under the Item of "Magnesium of all kinds" and "Magnesium alloys," over to the right, under Column "E"; "Licenses for new construction, expansions and for the starting of operations in plants heretofore idle. Reason: Importance of such plants for the production of armaments." Magnesium...

At page 193, which is 584 of the German, 78 of the Original paging, we discover how they propose in the New Order to handle the pharmaceutical industry. Under "III A, the following proposals, especially since this is a necessary requirement in the sound planning of the New Order as set forth: "All rights derived from trade-marks used in the pharmaceutical field which were seized previously should be restored. All trade-marks which were seized during the World War and which after the war were treated as free trade-marks because of our inability to protect them through legal channels and which thus became inaccessible to us, must be restored to the owners and registered and protected with retroactive effect."

And then there is a reference as to how competition should be regulated, and toward the bottom of the page, under "C", subdivision "a", "Regulations protecting the domestic serum industry must be abolished in order to guarantee free import of German serums and vaccines."

Page 194, which is 587 and 80 of the German, at the top of the page, "D". "The General Part has pointed out the necessity of organizing the whole pharmaceutical industry in Greater Europe under the leadership of the German pharmaceutical industry in such a way as to achieve its great objective in the most direct way possible. In the interest of these plans it is therefore necessary to define precisely future activities of the French pharmaceutical industry."

"The French pharmaceutical industry should be compelled to restrict its activities to the domestic market. Exports should be allowed only insofar as prices and market regulation agreements made with German firms of the pharmaceutical industry permit."

And then the next paragraph, again the concept of the cartel--the fourth paragraph--again the concept of the cartel: "Particular en-

phasis must be placed on the dangerous situation resulting from the fact that at the present time chemists who have worked in France emigrate to other countries. In these countries they might create new national industries by using French and also German production methods, the knowledge of which they had acquired in France. These industries, in turn, might have a detrimental effect on German exports."

Two paragraphs down: "In the field of serums, agreements must be made concerning the sale of French serums and vaccines, in particular those produced by the Pasteur Institute. As in the case of the pharmaceutical industry, they should stipulate that the French domestic market must be opened to free competition. In the field of exports, however, the French producers of serum would be obliged, just as the producers of pharmaceuticals, to consult with the German industry on questions of price and market regulations."

I think, if Your Honors please, that covers in the main the provisions of the New Order in the general part, and as applied to France. At 196, which is 594, appears their plans for the control of the nitrogen industry, and because of the special importance of nitrogen. I call it to Your Honors attention.

Now, just one more, at page 197, which is 597 and 90 of the German, at the bottom of the page. "In accordance with political developments, control of the armament industry in those countries which were or still are at war with Germany will probably have to be expected. Attention should be called to the fact that for reasons of economic defense, such control in the field of technical nitrogen should appropriately begin with the raw materials, that is, with nitric acid and ammonium nitrate."

And again this is Farben's own statement treating nitric acid and ammonium nitrate as indispensable to the armament industry, and suggesting the control of the production of these raw materials.

As Prosecution Exhibit 1052 we offer NI-6840. This is a memorandum of 7 August 1940 by Torhaer, Farben's Berlin NW-7, transmit-

ting to German authorities the documents of peace planning and the material pertaining to France.

At page 199, which is page 67 of the German, he refers to the fact of a conference with the Reich Ministry of Economics and he given the reaction of the minister: "Mr. Schlotterer's reaction to the material presented to him by us was essentially and entirely positive with regard to both methodical procedure and basic conceptions and the evaluation of individual questions undertaken by Ferson."

And at the next page, 200, which is page 69 of the German, at the top of the page, "Ministerial Director Schlotterer likewise considers it right to draft the general part as it has been drafted and agreed entirely with the arguments on which the general part is based, namely, leadership of German chemistry in 1914; subsequent "relativity" due in Versailles; necessity of restoring this leadership under the New Order."

At page 199, going back a page, again in the same document, the second paragraph from the bottom. After he has reported on the Ministry's reaction which was very favorable to their new order plan:

"This favorable reaction accordingly covers the project planned by the Commercial Committee for memos on countries in the order chosen in this list, as well as the internal organization of our material, e.g., the development of our material, as planned in the letter to Schlotterer."

And that's the covering letter of August 3 which is the first page of the preceding document.

At page 201, which is 69 of the German, at the top of the page, he is still reporting on his discussion with Schlotterer:

"As a further example the Kodak affair was discussed. Schlotterer agrees entirely with our opinion that the Americans must be eliminated from French production with all means at our disposal. The very definite stress which Mr. Schlotterer lays on this point leaves no doubt that we need not be at all particular in the choice of these means."

At the bottom of the page, which is page 70, still reporting:

"The following details are interesting:

"That it is actually a matter of course that on the basis of Germany's superiority from the angle of power politics, the economic and political superiority of Germany over France, to be firmly steered by Germany, should be established once and for all."

At page 203, which is 73 of the German book, at the bottom of the page:

"The fundamental constructional principle of the Economic Group, as we were able to establish after surveying the completed draft, is definitely the cartel principle. All the European industries are to be organized, each in its own time, into such planned cartels, voluntarily linked together, in order to regulate within this organization the production and the market under German

management and in accordance with German interests. The foreign relations of these cartels with countries outside Europe is to be regulated by means of special syndicates attached to the cartels."

It indicates, in our view, the use of the cartel as an economic weapon of war.

At page 205, which is 75, in the middle of that page:

"We have explained in this connection to Mr. Bern..."

One of the officials in the Ministry.

"....that we considered France not only as a model for the plans in countries asked for by the Reich Minister of Economy, and which will follow shortly, but above that as a classic example of the whole factual consideration to be done in connection with large-scale area planning."

Now, back at page 199, which is the first page of the document, Your Honors will note that it's a memorandum for the files and it occurs to us that usually in memoranda for the files there is no occasion for windowdressing.

The next document, 11377, we ask that it be stricken because the same letter is contained in a succeeding document, 10164, and it's best just to strike that page.

As Prosecution Exhibit 1053, we offer NI 6955. It's a letter of 22 October 1940, from the defendant von Schnitzler to members of the Commercial Committee re: Proposed New Order for England, and at page 208, page 81 of the German book, in the middle of the page:

"It is obvious that a similar program is desired for England before the end of the hostilities with her."

This is October, 1940.

".....so that when an armistice is concluded the lack of clear ideas in the field of political economy should not again prove a disadvantage, as in the case of France."

Then there is a little reference in that letter that, of course, they have to consider the attitude of the United States in future

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discussions.

As Prosecution Exhibit 1054, we offer NI 10165, which are excerpts of the new order with respect to Holland, Denmark and Belgium. We shall not read any portion of it, merely to indicate that the detail, as applied to the general principles as set out in the new order which I have orally discussed and takes into consideration the particular local problems of these named countries and how they are to be brought into the economic sphere of the new order.

As Prosecution Exhibit 1055, we offer NI 6925. It's an agreement between I. G. Farben and the Japanese Imperial Army Minister. It's in January, 1945.

DR. SILCHER (Defense Counsel for defendant von Knieriem):
Mr. President, in our Document Book 51, 10164 is not contained. It ends with NI 5195.

MR. AMCHAN: That document, Your Honor, was submitted to them separately, outside of the document book and probably counsel has mislaid it, but there was a delivery in due time, with a notation that it would be considered in connection with this book. They got these on the 14th of October, but if counsel can't locate it, we'll undertake to supply them additional copies.

THE PRESIDENT: Our copies were separately delivered.

MR. AMCHAN: That is correct.

THE PRESIDENT: But we do have them.

MR. AMCHAN: That was the same thing that happened with the defense.

With respect to Exhibit 1055, NI 6925, that's an agreement of January, 1945, between Farben and the Japanese Imperial Army Minister in which I. G. Farben assigns its patents and know-how with respect to its hydrogenation process. The preamble is interesting. It recites:

"In order to accomplish the great tasks for the development of the New Order in the world with which Japan and Germany are

faced..."

Then comes the clause of assignment, etc.

As Prosecution Exhibit....

Your Honors will note that with respect to the Japanese contract, the defendant Euetefisch signed on behalf of Farben.

NI 5195, the Schnitzler affidavit, we offer as Exhibit 1056. It's in the document book before you and, of course, is in the Schnitzler Book #16, and at page 209 of the document book is the beginning of the affidavit, and at page 218, under item 6, he discusses the New Order. I just ask Your Honors to note that at page 218 and 219 and, although one is always tempted to read the Schnitzler affidavits orally, Your Honors have them before you and in this connection with respect to the New Order, I think your own reading will indicate its significance.

With this we conclude the presentation of the documents under I-E.

Now, before proceeding with the introduction of the documents under Count II, we feel we should refer very briefly to Count I, sub-division I of Count I, which Mr. Sprecher discussed early this morning. Very briefly we should like to call Your Honors' attention to the fact that although we have charged, under Count II.....

THE PRESIDENT (Interrupting): Pardon me. What page of the Indictment do you find that?

MR. ARCHER: That is on page 65 of the version you have. It's paragraph 64 of the Indictment.

Although we have set forth the particulars of our spoliation charges in Count II with respect to Austria, Czechoslovakia, Poland and the countries named, as being War Crimes and Crimes Against Humanity, that was only as a matter of convenience of presentation. We should like to point out that under sub-division I of Count I the same facts which are charged and alleged under Count II and in Count III constitute, in our view, also the commission of Crimes Against

the Peace, and we have clearly set that out, we believe, in subdivision I where we incorporate, by reference, the allegations contained in Count II and III, so that when we come to the presentation of the proof on Count II and Count III, it's only a matter of formal convenience that we regard it as being under War Crimes and Crimes Against Humanity. We do not like to be misunderstood. We want it to be clear that we consider those facts and charges as constituting, in addition, Crimes Against the Peace and, accordingly, should be considered, in addition to the other charges, as constituting Crimes Against the Peace which we charge here.

Now, we are about, as I indicated, to present the documentary proof on the matters formally charged under Count II, the spoliation activities on Austria, Czechoslovakia, Poland, etc., and that will be presented by Dr. Newman in the main, Mr. Sprecher and myself, and we believe that it would be helpful that, before preceding with the formal introduction of the documents with respect to the next book, Dr. Newman has a statement which would set forth generally the scope and purpose of it, and, with Your Honors' permission, I'd like to present Dr. Newman with a statement which I think will be within our timed session.

NEWMAN: The Indictment charges that these defendants participated in the plunder of public and private property, exploitation and spoliation thereof in countries and territories which came under the occupation of Germany in the course of her invasions and aggressive wars. Under Count I, letter (1), of the Indictment, we have already indicated as Mr. Amchan just stated that these acts were committed as an integral part of the planning, preparation, initiation, and waging of wars of aggression, and invasions of other countries, and that, therefore, they constitute crimes against peace, and are punishable as such. But they are also war crimes and crimes against humanity, as defined by Control Council Law No. 10, 1 b and c. Control Council Law No. 10, in its definition of war crimes, refers, among other things, to offenses against property constituting a violation of the rules or customs of war, including but not limited to plunder of public or private property. It thereby refers to and re-affirms, a.e., the law as qualified in the Hague Convention of 1907, and the rules and customs of war set forth in its annex. That the Hague Convention must now be considered an established standard of the rules of warfare, has also been ruled by the International Military Tribunal, page 334, where it is said:

"The rules of land warfare expressed in this convention are declaratory of existing international law."

and hence are applicable. For a better understanding of the material to be submitted, and of our purpose in offering this evidence, we should like to point out what we consider to be the essence of spoliation charged to these defendants. It is the over-all scheme to seize the industries of Europe in order to have Europe dominated by Germany, and to have the Farben empire flourish in the Continent thus subjugated. Aggressive war with spoliation as its integral part was the means; subjugation, at least of the continent of Europe, the ultimate goal. In each case of spoliation, we shall point to this very scheme. Suffice

it here to quote from von Schnitzler's affidavit, NI-5194, contained in Doc. Book 16, already submitted to the Court and to the defense.

I quote from page 51 of the English Document Book:

"Beginning with the peaceful conquest of Austria and Czechoslovakia (Sudetenland), and continuing with the military conquest of the remainder of Czechoslovakia, Poland, Norway, Holland, Belgium and France (with the peaceful conquest of Denmark following in between), and also in regard to the South-Eastern countries, it was the primary purpose of the German government to incorporate the economies of those countries to the purposes of Germany. This undoubtedly meant that those countries must work for the German war machine. The principle from the first was "Fuehrer" but that these countries must do it themselves. I remember that Dr. Schlottoror, Ministerialdirigent of the Reichswirtschaftsministerium, announced this principle in a meeting of the Beirat (Advisory committee of the Reichsgruppe Industrie) after the conquest of France. I.G. also acted in accordance with this slogan."

Factually, the spoliation activities of these defendants were of two general types, each of them violating the established rules and customs of war, as set forth, a.o., in the Annex to the Hague Convention of 1907:

FIRST GROUP: The confiscation in occupied territory of private property not justified by the needs of the Army of Occupation, in direct violation of Article 46, paragraph 2, of the Annex to the Hague Convention which reads:

Private property cannot be confiscated; and also the confiscation of any public real estate, in violation of Article 55 of the Annex to the Hague Convention. Such, as we shall show, was the case in Poland and Alsace-Lorraine where the actual confiscation was done by the German Reich or its agencies while these defendants participated by acquiring the confiscated property from the German Reich or the agencies, when they were fully aware of the fact that such property had been confiscated, or was even being confiscated for the distinct purpose of transferring it to Farben. To this group also belongs Soviet Russia where plunder was planned on the largest scale conceivable, and where

these defendants participated by assisting in the planning: by delegating experts to act as Government agents; by playing a part in the foundation of public enterprises which were to take over plants in the occupied territory; and where they fought for their part in the spoils until the victorious Russian Armies frustrated their dreams.

SECOND GROUP: The acquisition of any property from the rightful owners in occupied territory where the presence of the Armed Forces was, to the knowledge of these defendants, a decisive factor in bending the owner's will; in other words: where, without the ever-present threat of the Armed Forces of the occupying power, the owners would not have been ready to part with their property. Such was the case in Austria, Czechoslovakia, France other than Alsace-Lorraine and Norway. May we refer, in this connection, to the solemn warning contained in the "Inter-Allied Declaration Against Acts of Dispossession Committed in Territories under Enemy Occupation or Control" of 5 January 1943, which we shall offer as first document of Book No. 52 concerning spoliation in Austria.

NI - 11378.

I would like to quote shortly from its contents, t.w.:

End of first paragraph:

"But the object is always the same - to seize everything of value that can be put to the aggressors' profit and then to bring the whole economy of the subjugated countries under control so that they must slave to enrich and strengthen their oppressors."

and from the last paragraph but one:

"This warning applies whether such transfers or dealings have taken the form of open looting or plunder, or of transactions apparently legal in form, even when they purport to be voluntarily effected."

In the countries last mentioned, i.e., Austria, Czechoslovakia, France other than Alsace-Lorraine, and Norway, we shall have to deal almost exclusively with such "transactions apparently legal in form" which

"purport to be voluntarily effected."

To sum up: Spoliation, as we understand it, is the seizure of the industries of the occupied countries for the purpose of subjugating the local economy to the interests of Germany in German-dominated Europe.

It is, therefore, not an essential element of the crime of spoliation that express threats were used against the owner; or that the consideration, if any, given for the property was disproportionately low; or that, in the case of corporate owners, the legal representatives voiced any objections to the proposed deal; as we shall see, in many cases the opposing representatives were replaced by dummies who were more pliable to the wishes of the spoliator. If, in spite of this legal conception, we submit extensive evidence that downright pressure or extortion was frequently used to bend the owner's will; or that no consideration at all, or quite an inappropriate one, was paid; or that the rightful owner was most strongly opposed to the deal, and behaved accordingly, we do not mean to say thereby that we consider these circumstances or any of them essential elements of spoliation; they are more aggravations of the crime.

We shall also submit quite a number of documents showing that, in most cases, the initiative in spoliating property in occupied countries was distinctly that of Farben, without any urging, and sometimes even against the outspoken policy of the Nazi Government. By that, again, we do not mean to say that taking the initiative is one of the criteria of a spoliator; but it completes the over-all picture, and constitutes an aggravating factor against these defendants while it might have served to mitigate their crime if, indeed, they had acted only on orders, or only under pressure from above.

DR. HOFMANN for the defendant von der Heydol.

May I comment, very briefly, on the fact that the prosecution has stated that Count I (1) is included simultaneously under II and III. This constitutes a change in so far as I know from a consideration of the prosecution evidence in Count 1, only, that only Count I was referred to by affidavits and witnesses. Now if Count I-1 is to be considered from the standpoint of Counts II and III, as well, then of course I must consider the affidavits and witnesses from this point of view as well, so that I have to deal with Count 1 in quite a different way.

Also it is questionable whether I can be concluded before II and III have been dealt with. I only wanted to express my misgivings at this time, and I should like to reserve the right to submit a memorandum to that effect, to the Tribunal if desired.

THE PRESIDENT: That is a matter which depends, in the final analysis, upon the construction to be placed upon the specific language of the indictment. Counsel for the prosecution pointed out that in our English books, at page 85, which is paragraph or sub-division (1), of that part of the indictment devoted to Count I, there was some reference to the allegations of Counts II and III being made a part of Count I by reference.

As to the effect of that, and the significance of it as a matter of pleading or proof it is a matter that we will be confronted with when we come to the consideration of the legal aspects of the case, and counsel will have an opportunity to present his views at that time.

MR. DUBOIS: I would just like to say too, Your Honors, if my memory serves me correctly, I believe the Tribunal made it very clear at one point that these affidavits, once in evidence, were in evidence for all purposes, and that the affiant should be cross examined on all matters in those affidavits and that the time at which they were presented was purely a question of convenience and not the presentation of proof.

I think that is very clear from the record.

THE PRESIDENT: I think that is a very clear statement of what the record will reveal. We sought to avoid a situation where we would have these witnesses who have signed affidavits, brought back repeatedly for examination on subjects of less than the whole of the affidavit.

After all, this presents a question of the legal effect of the indictment which will be a subject of consideration at the proper time.

Now just before we recess for the day, the Tribunal wishes me to advise counsel that it has been concluded that there will be no session on next Saturday. The Tribunal will be in session on next Monday, but this fact is not to be construed as the establishment of any binding precedent, so far as the future is concerned.

Early next week the Tribunal will take up and discuss with counsel what the policies shall be with reference to the length of the week and recesses.

There will be no court on next Saturday, the Tribunal expects to be in session on next Monday.

MR. SPEECHER: May we have just a moment to prepare for the usual announcements, your Honor?

THE PRESIDENT: Yes.

MR. BACHEN: Your Honors, may I briefly comment on this last question which I understood to the effect that there will be a session next Monday by way of exception. Just now there is a great deal of cross examination to prepare for, since a large number of affiants will probably be called by the prosecution next week.

Moreover, we have a very large number of documents, especially concerning Count II, which, according to the prosecution, affects all of the defendants since conspiracy is included here. Therefore, the defendants have to prepare all of these documents, and all of the many cross examinations. This is only possible in an orderly manner, however, if the defendants are given enough time to do this, to talk to each other on the one hand, and on the other hand, to talk to their counsel.

On the week end there is only one possible conference on Saturday morning, with the counsel, and in addition to that, there has been Monday up to now, but if there is a session on Monday, then these discussions will be dropped and therefore it will not be possible to discuss all of the questions which will come up during the next week.

Therefore I take the liberty of asking the Tribunal whether it would not be possible, after all, to have this Monday free.

THE PRESIDENT: With regard to the cross-examination of these witnesses, the defense is in a better situation than if the witnesses had been produced on the stand, and if you had been confronted with the necessity of immediately cross-examining them at the conclusion of the prosecution case, of the evidence in chief.

The same is true, in a large sense, with respect to the documents. They have been in your hands some considerable time. The Tribunal is not disposed to want to burden you to the extent that it would seriously interfere with the proper trial of the case, and for that reason we made the specific reservation that we would not announce now any policy of holding court on Monday beyond next Monday, but in view of the fact that we have lost some time because of the court room being unavailable and you have had the advantages of those days, we feel that we would be justified in asking you to hold court next Monday.

We will make a new appraisal of the situation at the very first of next week, and determine what we will do in the future, but we have revolved this matter in our minds quite considerably during the day, and we do feel a very definite responsibility to expedite this case as rapidly as we can with regard to the rights of the defendants.

We will have court next Monday and we will ascertain from you then, and after that, as to whether or not it has imposed too heavy a burden on you and if we are convinced that it has, we will change the policy in the future. We hope that it will not be even be necessary to change it, but we will take a view of the situation after the experience of next Monday and see just how well we do get along.

The Tribunal will now arise until 9:30 tomorrow morning.

MR. SPEECHER: Just a moment, Your Honors.

THE PRESIDENT: We will hear you, Mr. Prosecutor.

MR. SPEECHER: Tomorrow we will go on with respect to Count II so far as Austria, Czechoslovakia and Poland are concerned, which will be covered in document books 52, 53, 54, 55, and 56. Thereafter we will go into the case on spoliation in Russia, in the Soviet Union, even though that is out of order chronologically speaking, because the type of spoliation there involved fits more closely into the type of spoliation in Poland, and we might conceivably reach that tomorrow.

That is to be found in Document books, 63 and 64.

Now your Honors, because of the reference Dr. Bachan just made with respect to an alleged conspiracy charge, there will only be a conspiracy charge with respect to all defendants to Count II. I wonder if you would like to have me make a remark at this time? We dislike to have the record stand with that remark because I have made our position so eminently clear to a number of the defense counsel in chambers, and I think it is also clear in the indictment.

However, I do not want to trouble you with it, if you do not want to hear it.

THE PRESIDENT: We would be glad to make that much progress. Make your statement.

MR. SPEECHER: With respect to Count II, we are changing these defendants individually with being responsible for the spoliation activities of Farben. Now already today, for example, if I may point to the activities of the Commercial Committee, and the activities of various Farben technicians, Your Honors have seen the prior knowledge which these defendants had of these general types of action which had to do with the utilization of all Europe underneath German domination.

Now there is always a difference in a large concern such as this, with respect to who did the most, with respect to what, in each individual case, of course, but that these defendants were generally advised, at

least sufficiently advised in our opinion, to be chargeable individually, and we mean as principals, as accessories, both before and after the fact, or as persons taking a consenting part, we think is clear beyond doubt, and that has nothing to do with Count V.

That has to do, quite apart from the conspiracy count, and this, of course, ties in with respect to most of the defendants under what has often been called a theory of Vorstand responsibility, a theory which we feel was imposed upon us both by German law, and by the actual way in which Farben conducted its business.

THE PRESIDENT: The Tribunal will rise until 9:30 tomorrow morning.
(In recess until 0930 hours October 22, 1947.)

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OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NÜRNBERG

**CASE No. 6 TRIBUNAL VI
U.S. vs CARL KRAUCH et al
VOLUME 8**

TRANSCRIPTS
(English)

22-27 October 1947 pp. 2499-2864

Official Transcript of the American Military Tribunal in the Matter of the United States of America, against Carl Krauch, et al, defendants, sitting at Nurnberg, Germany, on 22 October, 1947, 0930-1630, Justice Shake, presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal VI. Military Tribunal VI is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshal, are the defendants present?

THE MARSHAL: May it please Your Honor, all defendants are present save the defendant Hoerlein, absent due to illness.

THE PRESIDENT: Dr. Wurster, we note he's present. What does his counsel have to say with reference to his condition?

You may be seated.

DR. HEINZELER (Defense Counsel for defendant Wurster): Your Honors, yesterday because of orders, my client was removed from the so-called Gestapo Prison, where the sick people from the military prison are housed, and was transferred to the court prison here. Today, for the first time, he is present in the court room. Dr. Wurster personally has the will and the wish to sit through the trial and to convince the court of his innocence. As defense counsel of Dr. Wurster, however, I consider it my duty to point out that I have serious fears that my client's stay in the prison and his participation in the trial may seriously impair his health. The order that Dr. Wurster was to be transferred to the prison was issued yesterday afternoon at 2:00 o'clock.

The German doctor who had been treating Dr. Wurster up to that time had had the intention yesterday afternoon to take a new electrocardiogram and to measure his blood pressure again. He executed this intention. The result of the electrocardiogram, as far as I know, is not yet available, but I have been informed that the blood pressure test yesterday was very unfavorable, a blood pressure of 219/119. By way of comparison, I should like to mention that the blood pressure of a healthy person of



the age of Dr. Wurster should be about 140 to 90.

Yesterday afternoon, after 5:00 o'clock, I obtained information of the proposed transfer to the prison and of the result of the blood pressure test. I tried to have the order recalled, but I was unsuccessful. I consider it important to tell the Tribunal of these events and thus have them recorded in the record in order to make it clear that the defense is not responsible if the decision reached by some other source leads to further consequences for my client. I reserve the right to make an application to the Tribunal for an examination of my client by a commission of doctors because of his general state of health.

Independently of this, I should like to ask the Tribunal to excuse Dr. Wurster from appearing in court in the future, if necessary, to have his right shoulder treated in the hospital. In April of this year, Dr. Wurster had a complicated fracture of the right shoulder. This fracture, in May, involved a very serious operation with opening of the shoulder joint. After this operation, and even today, there is danger that the shoulder joint may become stiff or may suffer other serious consequences if it is not regularly massaged and given other treatment. Up to now, this treatment has been given twice a week. I should like to ask the Tribunal, independently of the general application, that the continuation of this treatment be made possible.

THE PRESIDENT: If counsel pleases, the position of the Tribunal with respect to your client is simply this. If his physical condition is such that he can be present in court during these proceedings, he should be. If not, if his presence here would jeopardize his health or his life, the Tribunal would not, by any means, insist upon his being here.

So far as his attendance today is concerned, you may advise him that he is at liberty to remain in the court room, but that he will be excused at any time that he feels that he cannot endure the rigors of attendance, and if he will communicate with you, you are authorized to

advise the Marshal to escort him back to his quarters at any time.

Now, as to the matter of his treatment and care. That involves a subject in which the Tribunal itself cannot be informed, but we shall be glad to receive you, as his representative, in chambers, at any time, and to cooperate with you to see that he receives proper care and consideration. It won't be necessary to burden the record here with those informal conferences, but if some order becomes necessary, then we'll make it on the record for our protection and yours and his.

In the meantime, will you undertake to keep us informed as to his progress and if you have any feeling that an order of the Tribunal is necessary for his proper care, you let us know and the appropriate order will be made on the record so that everyone will be informed and advised about it.

I think that's all we can say now, except to repeat that if you receive information from your client that he feels that he cannot attend court during the day, be it now or later, you're authorized to advise the Marshal and the Marshal will now understand that he will take the prisoner back to his quarters.

DR. HEINZELER: Mr. President, as far as the treatment of the shoulder joint is concerned, I do not believe that an order of the court is necessary. I merely brought the matter up so that I could ask the Tribunal to excuse Dr. Wurster, when necessary.

THE PRESIDENT: Well, we should like to have the record show from time to time what the situation is so that the facts may be known and recorded in the proceedings of the Tribunal, so you feel free to call it to our attention to whatever time you think it should be brought to the notice of the Tribunal.

Any other preliminary matters before we start hearing the evidence again?

MR. SPRECHER: Mr. President, yesterday the prosecution served notice of the appearance, tomorrow or shortly thereafter, of the witness Mauricy Szpilfogel, and I only wanted to state now, in open court, that

we intend to put this witness on the witness stand just after the conclusion of the spoliation case concerning Poland, unless that should be very close to the end of the session, in which case we'd go over, with your permission, to the next full session.

THE PRESIDENT: Thank you.

The defense will be advised, of course, by this notice, of the intention of the prosecution.

If there are no other preliminary matters, the prosecution may proceed with the introduction of its proof.

JUDGE MORRIS: Mr. President, before we start hearing the proof on Count II, I'd like to have some clarification or, at least, a discussion of the position of the prosecution regarding some matters that arise in my mind under this Count.

I was considerably disturbed yesterday by the preliminary statement which seemed to forecast that we might again, as we have had in Count I, a lot of uncertainty, a lot of time wasted on irrelevant evidence and exhibits being introduced in the record - undue lengthy proceedings.

So now, if I may direct your attention to Paragraph 86 of the Indictment, which is the charging part of it. It appears to me that the prosecution has there charged that the defendants unlawfully, willingly and knowingly committed War Crimes and Crimes against Humanity. Now, that part of the information charges the crimes. It charges two crimes. To that extent, it's duplicitous. Now, when we get down to the actual setting forth of the crimes charged - that is, how the defendants committed War Crimes and Crimes against Humanity, it is said that they participated in the plunder of public and private property, exploitation, spoliation and other offenses against property in countries and territories which came under the belligerent occupation of Germany in the course of its invasions and aggressive wars.

Now, our immediate query to the prosecution is this. You have charged the commission of War Crimes and Crimes against Humanity in this Court. However, you specify only Crimes against Property. Now, if you refer to Control Council Law #10, do Crimes against Humanity include Crimes against Property?

MR. ANCHAN: May I confer with my colleagues so as to know how far I could commit the prosecution on that?

JUDGE MORRIS: Surely.

THE PRESIDENT: While we're waiting. The President notes that some of the defendants apparently are having some difficulty with their sound track system. If they need any assistance, we have an officer in charge here that will be very happy to give attention to the matter.

Mr. Marshal, will you call the attention of the technical force to the matter?

MR. MARSHAL: It's all right, sir.

THE PRESIDENT: Very well.

MR. ANCHAN: If Your Honors please, after consulting with the other members of the prosecution, we believe that at this point just a general statement would be most wise, reserving our rights to submit a more detailed memorandum so as to give us a chance to reflect on it further.

As a general proposition, under the definition of Crimes against Humanity, they refer to, among other things, atrocities and offenses, including but not limited to, murders, etc., or other inhumane acts committed against any civilian population or persecutions on political, racial or religious grounds, whether or not in violation, etc. Now, in connection with the offenses against property, the proof will indicate that the duress and coercion was asserted and directed against former owners of the property on political, racial and religious grounds and, necessarily, in connection with the acquisition, through force and duress, of this property, certain inhumane acts

were committed against the former owners, so that, as a matter of pleading, we think when the element of the activity of these defendants ultimately directed against seizure and acquisition of property, and when it involved duress and force and inhumane treatment on the grounds indicated here in the Control Council Law, we think we're entirely proper in setting out, within the confines of the Control Council Law, that their activity in that field also constitutes Crimes against Humanity. The entire transaction and activity with respect to individual property and individual country will indicate to Your Honors that, as part of this activity, they were directly tied to the program of persecution on political, racial and religious grounds, and while the objective immediately was to acquire this property, we cannot overlook, it seems to us, the acts they did and participated in and ratified with respect to the person of the individuals who were the lawful owners before the unlawful occupation of the country. The proof will also show that the persecutions on political, racial and religious grounds was not limited to the owners. It extended to other people who were involved in connection with this property. I think, as a general proposition, to indicate the direction of our thought at the present moment, that might suffice and, of course, we will be prepared to submit a more extensive memorandum if Your Honors desire.

JUDGE MORRIS: Thank you very much. I wanted to get your position and the ruling on behalf of the Tribunal or anything of that sort.

Something more, Mr. Sprecher?

MR. SPEECHER: Judge Morris, it occurred to me that in connection with your statement that the charge was duplicitous.... That is true so far as the conclusion of law is concerned with respect to the charges. However, with respect to the proof, the proof is naturally overlapping and it dovetails and I think that, in our memorandum we would like to point out some of the references which have been made previously in other cases to the question as to the extent of the

overlapping or identical nature in most cases, in any event, of War Crimes and Crimes against Humanity.

JUDGE MORRIS: Well, from what you said, I would take it that you could strike out the words Crimes against Humanity in this County entirely and it wouldn't affect your proof at all because it all goes in War Crimes anyhow. Is that it?

MR. SPRECHER: Well, because we have two types of crime, the facts of which or the proofs of which overlap, does not indicate to us that we should strike one of the crimes from the record. The Crimes against Humanity are set up as a separate type of crime and the fact that the facts that establish the Crimes Against Humanity also establish War Crimes doesn't alter the facts, in our view.

JUDGE MORRIS: I'm afraid I didn't make myself clear. I said, as far as your right to introduce proof is concerned. I wasn't suggesting that you do that. But in order to get my thought or, at least my understanding of your position, that even if you had not said a word about Crimes against Humanity, you could have still introduced all the evidence you have in mind, under War Crimes.

MR. SPRECHER: That is clearly true, in our view, with respect to all events which happened after the 1st of September 1939, when Poland was invaded. With respect to the spoliation in Austria and Czechoslovakia, since the aggressive act did not lead to an aggressive war because the invaded sovereign power did not offer resistance, you may have a somewhat different problem, as Your Honor will quickly understand, because what is described as a War Crime historically has directly to do with crimes during actual warfare, after the war is actually under way and the sides have been in mortal combat. Since that did not take place with respect to Austria and Czechoslovakia, although the German Reich took the properties of those countries and utilized it in connection with the preparation of further aggressive acts and for the benefit of the German war machine, we think that we perhaps should bring that type of conduct

in under Crimes against Humanity if we cannot bring it under the War Crimes category.

JUDGE LORRIS: Your remarks now lead me directly to my next question in which it is charged that these offenses of spoliation and other offenses against property were inflicted in countries and territories which came under the belligerent occupation of Germany in the course of its invasion and aggressive wars. Now, my query is, are you limiting your proof to instances affecting property in countries and territories that came under the belligerent occupation of Germany? That is, in those territories and only those territories that were occupied, and after they were occupied?

MR. SPRECHER: German troops marched into Austria and into Czechoslovakia, and it was certainly a belligerent occupation. Now, the fact that the use of force prevented for one reason or another, or for one reason or another the other side did not resist with military force, does not effect the fact that it was a belligerent occupation accomplished by force.

JUDGE MORRIS: Was it an invasion?

MR. SPRECHER: It was an invasion, yes.

JUDGE MORRIS: That is what I was wanting to get around to.

MR. SPRECHER: It was also found to be an aggressive act by the IMT.

JUDGE MORRIS: But not an aggressive war?

MR. SPRECHER: It was not a war because you cannot have a war unless the opposing side fights back and because of the tremendous power of the German Reich, when directed toward these two small sovereign countries, under the circumstances at the time did not cause these powers to resist. You certainly do not remove whatever rights there may be for the vanquished or whatever law there exists internationally concerning this matter. As a matter of fact, I think the exemplary effect of international law is most important if it can stop the threat of force or the use of force which will not overrun small nations who are not in a position to resist.

JUDGE MORRIS: Now, just one more question in connection with that. Now, taking your definition of belligerent occupation of the countries which are covered, will your proof go back to a time beyond the belligerent occupation which you have outlined. In other words, is that going to be where you start, when the armies marched into Austria and Czechoslovakia?

MR. SPRECHER: Principally, but in many cases in order to show the lust for annexation and acquisition we feel it important to go back to show that in connection with motive that Farben had ambitions along these lines which it had not been able to achieve during times of peace, but which with the lust of conquest of the Nazis and the actual conquests by the Nazis, Farben suddenly was able to achieve. And we give that motive.

JUDGE MORRIS: Well, thank you; I will not detain your proof any longer, but I did want to get some of your views with regard to this opening paragraph of your Count. Thank you.

MR. ANCHAN: We are prepared to proceed with Document Book 52, if Your Honors please. The first book on Austria. I might preface the introduction of the documents by reading a sentence or two containing the findings of the I.M.T. with respect to Austria. Under the heading "Seizure of Austria," the I.M.T. states: "The invasion of Austria was a premeditated aggressive step in furthering the plan to wage aggressive wars against other countries."

As Prosecution Exhibit 1057, we offer NI-11378. That is a declaration-- I think we handed that up as a separate sheet, if Your Honors please-- It is the Inter-Allied Declaration of January 1943. It is (NI)11378. That declaration of the Allied powers against acts of disposition committed in territories under enemy occupation or control... On the first page of that document it recites that the powers are making a formal declaration of their determination to combat and defeat the plundering of the enemy powers of the territories which have been over-run or brought under enemy control. "The systematic spoliation of occupied- or controlled territories has followed immediately upon each fresh aggression. This has taken every

sort of form from open looting to the most cunningly camouflaged financial penetration, and it has extended to every sort of property, including the acquisition of shares in business and financial undertakings."

And at the bottom of the page: "His Majesty's Government agree with the Allied Government and the French National Committee that it is important to leave no doubt whatsoever of their resolution not to accept or tolerate the misdeeds of their enemies in the field of property, however these may be cloaked, just as they have recently emphasized their determination to exact retribution from war criminals for their outrages against persons in the occupied territories."

And at the next page, in the middle: "Accordingly, the governments making this Declaration and the French National Committee reserve all their rights to declare invalid any transfers of, or dealings with, property, rights and interests of any description whatsoever, or have been, situated in the territories which have come under the occupation or control, direct or indirect, of the governments with which they are at war or which belong, or have belonged, to persons resident in such territories. This warning applies whether such transfers or dealings have taken the form of open looting or plunder or of transactions apparently legal in form, even when they purport to be voluntarily effected."

Now, we refer to this Inter-Allied Declaration, if Your Honors please, to indicate that at least this was the concept of the Allied Powers as to what activities constituted spoliation, and it served notice to the enemy powers that in their view such activities were violations of the laws and customs of war.

As Prosecution Exhibit 1058, we offer NI-8041. This is a decree of 19 March 1938 respecting the establishment of business enterprises and plants in Austria. At page 1 of the document book, if your Honors please, under subdivision "2" of "1"-- it is page 1 of the German: "For natural or legal persons who had their domicile or business establishment in the German Reich outside of Austria it is prohibited:" under subdivision 2, "to acquire business enterprises of plants located in the province of Austria or to participate in such;"

That is on page 1 of the document book, if Your Honors please.

And then the next subdivision: "The Reich Minister of Economics may grant special exceptions to the provisions of Paragraph 1." The purpose of offering this document was to show that under the law promulgated as to Austria, persons domiciled in German could not acquire or do business in Austria or acquire business enterprises there.

And then we offer, as Prosecution 1051--

DR. HOFFMANN (Counsel for defendant von der Heyde): Mr. President, would you please look at Document 1058. This is the decree restricting the establishment of business enterprises, the second document that was submitted today in Volume 52. In the German text, under paragraph 1, it says: "Natural or Jewish persons..." Is that the same in the English book?

MR. AMCHAN: That is an error. We can see that it is an error. It means "juridical." "Juristischen" is juridical. We are sorry about that. It was just called to our attention. In the English book it is correct: "For natural or legal persons," and the German should be the equivalent of juristic.

THE PRESIDENT: Very well.

MR. AMCHAN: As Prosecution Exhibit 1051 we offer NI-6188. That is a letter from the Commercial Committee of Farben, through von Schnitzler, dated 26 March 1938, transmitting a study of economic effects of the law pertaining to the reunion of Austria. We only call attention to page 19 of the English book; the rest of the document is not relevant for our purposes, and you can disregard it. It is page 27 of the German, at the bottom of the page: "Prohibition of the Establishment of New Enterprises and Vocations." It repeats the decree that we just previously introduced, and the purpose of this document is to show that actual knowledge of the Austrian law was brought home to the KA and to von Schnitzler, and under the Austrian law they could not acquire industrial enterprises or plants in Austria. Actual knowledge is the purpose of this document.

The next two documents we will pass for the time being, if Your Honors please, and refer to them later.

As Prosecution Exhibit 1060 we offer NI-7388. I might say that the next five documents begin with the background of the story of the acquisition of the Skoda-Wetzler Works and the next five documents will indicate that prior to March 1938 Farben tried to acquire controlling interest, but the other parties refused to sell; and these are the documents.

The first, 7388, Exhibit 1060, is a letter from Pollack, who was the Director General of the Skoda-Wetzler Works--and I am presenting the Spoliation story of the Skoda-Wetzler Works. The letter is addressed to Mr. Rottenberg, the president of Skoda-Wetzler Works, transmitting a copy of a letter which Pollack sent to Buhl of I.G. Farben

to the effect that the Skoda-Wetzler Works -- or, rather, the Kreditanstalt, that is the bank that had the controlling interest in Skoda-Wetzler -- that the bank was unwilling to sell majority interest in Skoda-Wetzler. That appears on page 30 of the document book, which is 38 of the German; the third paragraph sets out pretty clearly why they did not want to sell the controlling interest in Kreditanstalt and Skoda-Wetzler.

As Prosecution Exhibit 1041 we offer NI-7394, a letter from Buhl, former Farben Vorstand member, to Pollack, Director General of Skoda Wetzler, stating that Farben might be willing to enter in agreement with Skoda-Wetzler even though they could not acquire a majority of the stock. That appears on page 32, and in his letter, the second paragraph, which is page 40 of the German, he states briefly, "For reasons which I explained at our last discussion in Vienna--" That is Buhl of Farben writing to Pollack of Skoda-Wetzler-- "it is extraordinarily difficult for Farben to give up its plan whereby, although the majority of the new Konzern company is not in Farben's own hands, a small amount of stock is neutralized for the purpose of ensuring at least that the business management does not run counter to Farben's interests. Nevertheless, I would not consider it impossible that in the way suggested by you--namely, contractual guarantees and an Austrian majority -- we might obtain results satisfactory to both parties."

As Prosecution Exhibit 1062 we offer NI-7392. This is excerpts of correspondence in January 1938 between Skoda-Wetzler, Kreditanstalt and an Austrian newspaper. The newspaper at this time published a report that Skoda-Wetzler and Kreditanstalt was negotiating for the sale of its interests to Farben. Skoda-Wetzler and Kreditanstalt, the bank, wrote to the editor of the paper and told them that his information was incorrect and the editor then published a retraction. We will refer to this, of the public knowledge at the time of what was going on.

As Prosecution Exhibit 1063 we offer NI-7389, which is a letter from Pollack, the director of Skoda-Wetzler, to Rottenberg, who was president of the Kreditanstalt Bank. It is February 1, 1938, and in that letter there is attached a draft of a letter that Pollack was going to write to Farben's Dr. Buhl, offering to discuss the matter of guarantees and contractual relationships at the conference.

JUDGE MORRIS: Now, during this time, the belligerent occupation of this territory had taken place, is that right?

MR. NEWMAN: No, it has not. This is before March of 1938, and the purpose of offering this is to show that for a period of time immediately preceding the invasion of Austria I.G. Farben and these defendants sought to acquire and buy the majority interest of Skoda-Wetzler Works. The purpose of these documents is to show that they could not but it as a business transaction because the owners of Kreditanstalt and Skoda-Wetzler refused to sell. That lays the background for what is coming on March 12th with the invasion, and the proof will show that on March 12th, suddenly, for reasons which will appear in the documents, they are willing to sell, and Farben acquires the majority interest. We think it entirely proper to show the background before we get to the period of invasion.

THE PRESIDENT: There is no claim, is there, on the part of the Prosecution that the effort of Farben to acquire this property by voluntary purchase was any violation of international law within itself?

MR. MCHAN: No, sir, there is no claim. At this point, prior to March 1938, we claim no violation. We just offer it as background for a better understanding and at least to appreciate the nature of the offense which we say was committed after March 12, 1938.

NI-6619 is already in evidence as Exhibit 339. It is an affidavit of Ilgner describing the appointment of a Mr. Neubacher as Mayor of Vienna. I might indicate that the next series of documents will disclose Farben's political connections with the Nazi officials who were in power in Austria, and we are laying a foundation to show their political connections in order to show that they used these connections as a means of acquiring this plant.

The affidavit of Ilgner at page 39—that is page 48 of the German, says: "I have known Dr. Hermann Neubacher—" Neubacher immediately became the Mayor of Vienna after the seizure of Austria—" since 1932 when I made his acquaintance in the capacity of head of a timber cooperative society which was..." and so forth. "I heard of him again when, after having served a sentence for illegal national-socialist activities in Austria, he came to Germany and, Cloduis of the Foreign Office and/or Wilmowsky of the Central European Economic Association, suggested him during my absence..to my deputy..for my employment at my office at Berlin NW-7. After my return to Berlin I granted this request and Neubacher was employed with the Berlin NW-7—" That is the division that Ilgner had direct charge of—" and the plan was that he should at first undergo a training period with the different departments of NW-7, the BDKA and the VOMI in order to work later on in connection with the I.G. business in South-East Europe."

A little further down: "Immediately after the German troops had marched into Austria, Neubacher was appointed Mayor of Vienna by Goering. When, shortly afterwards, I stayed in Vienna in the course of negotiations pertaining to the acquisition of the chemical plant of Skoda-Wetzlar and for the organization of the Donau-Chemie, Neubacher helped me by seeing to it that Raffelsberger, who was the Commissioner

for Private Enterprise, showed me every consideration."

Now, at the next page, 41, which is 51 of the German-- I am sorry, that is another document; that is Ilgner's version of the use which they made of their political connection of their former employee who became Mayor of Vienna.

As Prosecution Exhibit 1064 we offer NI-10421. It is an affidavit by Mr. Noack, a Farben official, employed in the Berlin NW-7, and he describes the part that Neubacher, Ilgner and von der Hoyde played in Austria. And at page 41, which is 51 of the German, paragraph beginning "1", about the middle, he is talking about Neubacher. He says "his job was to work out his plan of economic seizure and penetration of the Balkans from Vienna, which was to be incorporated. I.G. was to furnish him with the material basis for this work and to take part in carrying out the plan. This line of the German foreign policy was in harmony with Dr. Ilgner's own interest in the Balkans which also then found its expression in the fact that later Dr. Ilgner was appointed chairman of the Committee for South-East Europe of the Reichsgruppe Industry."

As Prosecution Exhibit 1065 we offer NI-1135. That is an excerpt of an article which appeared in Farben's own paper, "From Work to Work," regarding Neubacher's appointment as Mayor of Vienna. This, its own inside paper, was circulated among all its employees; and at page 43, which is page 53 of the German book--this is an excerpt. Do you see the message from Neubacher to Dr. Ilgner? About the second one? This is Farben's own words in its own local paper:

"We may now disclose this secret in our factory gazette without any scruples--" I think it would be better to start with the preceding paragraph.

"Certainly many, let us say, most, of us I.G. people did not know that Brigadefuehrer Dr. Hermann Neubacher, Mayor of Vienna, moved directly from his office chair in the I.G. at Berlin NW-7 to the desk of the high official of the new German city of Vienna. He had been

one of our many I. G. comrades before the crowning of the eternal German dream, the realization of a definite return of Austria to the German Reich which led him into the City Hall of Vienna."

"We may now disclose this secret in our factory gazette without any scruples. For many months Dr. Neubacher was available at I.G. Berlin NW-7 as a specialist on economic problems of Eastern Europe, and was used there for the examination and execution of certain measures which had proved necessary in the course of the economic developments."

JUDGE MORRIS: What was the date of publication?

MR. SMCHAN: That is a question I tried to check here, and since we have an excerpt I haven't got it. I will furnish it to Your Honor. We will check further.

THE PRESIDENT: This appears to be a signed article; who was the author?

MR. SMCHAN: Passarge was Farbon's publicity man. He was a Farbon employee who handled public relations and publicity.

I tried to locate that date just before the session. I am informed it is May 1938. And Your Honors can appreciate the timing of it. March 1938 was the Austrian invasion immediately after.

As Prosecution Exhibit 1066 we offer NI-11090. This is an affidavit of Walter Rafelsberger. Rafelsberger, as we already indicated, was appointed commissioner of Private Enterprise in Austria, and he is the direct political official who participated in a lot of these activities, and this is his affidavit on the reshaping of the personnel of both the Austrian Government and the Austrian chemical industry.

At page 44, if Your Honors please, which is page 63, about ten lines up, he says: "Newbacher now took steps in his turn and procured for me an appointment at once in Vienna"--indicating that Rafelsberg owed his appointment to Newbacher. Officially, he says, his appointment came from Seyss-Inquart.

Now, at the next page 45, he describes what his job was:

"I was now given the special task in Vienna of putting order into

the services of the public administration. In this capacity I worked directly under Neubacher. Soon after this I was appointed in April 1938."

Then, a little further down: "In my capacity as State Commissar for Private Economy had the task of seeing that the leading positions in business and in the organization of business were filled by people who enjoyed the confidence of the Nazi regime."

Beginning the next paragraph: "It was also part of my duties to appoint commissars in Austrian industries who had to take over the management of the plant."

and down at the bottom of the page, under Item 6: "With Generaldirektor Dr. Johann of the Austrian Kreditanstalt (of the bank) I came into touch from time to time in my capacity as member of the Aufsichtsrat of the Kreditanstalt." You find him becoming a member of the Aufsichtsrat of the bank now. "I was elected to the Aufsichtsrat of the Kreditanstalt after the Anschluss, in 1938." Then he modestly says: "I am not a banking expert, but the Kreditanstalt considered it of value to set up a liaison reflecting loyalty to the Nazi Party."

As Prosecution's Exhibit 1067, we offer NI 10,998. This is an affidavit of JOHAM, who was formerly the director general of the Creditanstalt. He is at present the public administrator. He was a direct participant in all of these matters, and his affidavit relates to the acquisition by Farben of this chemical factory.

At page 47 of your Honors, please, which is 66 of the German, we may dwell a little at length on this affidavit, because it is an important one from a person who is directly involved at a high level. He begins by saying:

"The powder factory of Skoda-Wetzler A.G. was until 1938 the leading Austrian enterprise in the chemical industry. It had its main plant installations in Moesbierbaum and belonged with a share of approximately 90 per cent in the stock capital to the Konzern Oesterreichische Creditanstalt-Bankverein."

And then he says that as a member of the Vorstand of the bank up to 1936 and after 1936 as General Director, he had to deal with this enterprise.

"The direct control of the company, lay in the hands of the directors" and when he is talking about it, he talking about the Skoda Wetzler, -

"lay in the hands of the directors Isidor Pollak and Engländer; Isidor Pollak had the reputation of being an expert of great distinction and was in contact with all the international chemical concerns."

I refer to this now because we will meet the people later on, and this will lay the ground work.

At the bottom:

"At this stage as Generaldirektor of the Creditanstalt I had to deal with the question of whether the Creditanstalt was willing to give up the majority of Skoda-Wetzler A.G. to I.G. Farben."

This is before the invasion.

"I rejected the idea as a matter of principle. That must have been in 1937. Any such sale of shareholdings especially of majority shares in Austrian enterprises was at that time quite opposed to the fundamental principles of the Austrian Creditanstalt."

A little further down:

"Under no circumstances did we want these to get into the hands of strangers. As far as I remember, Generaldirektor Pollak was entirely of our opinion. I must stress the fact, though, that Pollak's view which were those of a specialist of great

distinction certainly carried weight with us, but that it was, of course, the Creditanstalt itself which, being the owner, took the final decision."

Under the next paragraph:

"After the annexation of Austria by Germany in March, 1938, an entirely new situation naturally arose for the enterprise, owing to the fact that it was no longer the will of its owner which decided its fate, but that of state controlled economy. Enterprises and their owners, - and this applies to the Creditanstalt, were no longer free in their decisions, but were bound by the orders and recommendations of party and state economic advisers. As a result of these orders and recommendations the Creditanstalt was forced in a number of cases to surrender its shares into German hands and to the leaders of German combines."

On the next page which is 68 of the German, second paragraph, he talks about the difficulties generally, and then he says:

"There were similar difficulties also in the business management of the bank, as of the total of four members of the Vorstand," -

that is, the four members of the Vorstand of the Bank.

"Two had to resign as Jews. I myself was released from my position as Generaldirektor of the Creditanstalt and after my arrest by the Gestapo was restored to freedom only by the firm intervention of Franz Hasslacher who was Vice-president at the time. I also had to put up with my house being searched. Generaldirektor Pollak's house was also searched in April, 1938. He did not survive it."

The next paragraph:

"As far as the Skoda-Wetzler Affair is concerned, I remember amongst other things, directly after the Anschluss, a conversation with the representative of I.G. Farben, Guenther Schiller, who made every effort to acquire the position for I.G. At that time conversations were held with other representatives of the I.G. in the offices of the Creditanstalt. After what I have described above there is no doubt about the result, that we "surrendered" our holdings in the Skoda-Wetzler A.G. That our very real disinclination to part with this valuable majority had increased even more, is a matter of course."

That is the affidavit of JOHAN, who was the director general of the Bank.

As Prosecution's Exhibit 1068, we offer NI 10, 997. It is an affidavit by Professor Rottenberg, who was a co-director in the Creditanstalt, and also formerly the Chairman of the Board of the Skoda-Wetzler, and he gives his version of the transactions.

Page 51, which is page 70 of the German, "In the year 1931, I became President of Skoda-Wetzler". The next paragraph, "In 1932 I succeeded in

obtaining the services of the first rank, Ing. Isidor Pollak, whom I may describe as a genius in the field of chemistry. In 1934 he had already been made Generaldirektor of Skoda-Wetzlar."

"From the time of Pollak's entry, Skoda-Wetzlar enjoyed the greatest success.

(2) As far as I remember, our first contact with I.G. was established about the year 1936. The project of a nitrogen factory connected with the Wolfegg-Traunthal brown coal works originated at that time. The erection of a nitrogen plant in Moosbierbaum was envisaged. I.G. Farben was to put its experience at our disposal and to finance the building. In return we were to pay over a large capital sum annually. I.G. Farben was at that time represented by Dr. Illner.

At that time the negotiations came to nothing, because I.G. Farben made it a condition that it should receive Skoda-Wetzlar Stock free of charge."

Then he refers again that they decline, and on the next page, 52, after describing some detailed reasons of finance, why they declined, he concludes at the end of that paragraph:

"It must be borne in mind that the Creditanstalt had in reality developed into a holding company. Deprived of its industrial holdings, it would have been a hollow sham,"

explaining why, and as a matter of principle, they declined to sell.

The next paragraph:

"Until 12 March, 1938. What happened after this date, the date of the so-called 'Anschluss', I only know from hearsay. I, myself, as a Jew, was kicked out in a most humiliating fashion immediately after the Anschluss and retired to my house in Baden."

This is the President of the chemical plant.

"I was arrested there the same week by S.A. men who took me off in a truck and threw me out of the moving automobile, with the result that I sustained several fractures of my right arm."

The next paragraph:

"Pollak", the general director of the Chemical Plant, "was also arrested immediately after the Anschluss. He was soon discharged and sent home; and afterwards SA men forced their way into his house, and searched it. On this occasion Pollak was literally trampled to death in the presence of his sister, who described the incident to me herself."

"With that preliminary he goes ahead to say how they sold their interests in the plant and in the bank.

As Prosecution's Exhibit 1069, we offer NI 9289. This is an affidavit

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by Frank-Fahle, who was on the witness stand, in which he sets forth excerpts of the meetings of the Commercial Committee of I.G. Farben, with respect to Austria and Czechoslovakia.

I shall in this presentation only refer, of course, to Austria.

This affidavit was gotten together so as to assemble all of the Commercial Committee meetings dealing with this subject at a convenient place, and I would like to call your Honors' attention to page 55. I will just ask you mainly to note the date of the meeting, the persons present, and to mark the particular part.

Page 55, the second meeting of September, 1937, you will note the people present, - It is page 74 of the German, - at the discussion about acquisition of Skoda works.

Page 56, which is page 77, there are other meetings but I call special reference to the bottom of the page, Item 9, the Extraordinary meeting on 23 March 1938: persons present: Haefliger, Ilgner, Mann and Kugler. This being an important meeting it merits oral discussion. In general the meeting was open, laying stress on the extraordinary meeting that had been called for the purpose of discussing the questions which arise from the reincorporation of Austria into the Reich.

And further down, in the page, under (2) Skoda-Wetzler:

"Discussion of the situation as it presents itself since the recent developments shows that there is no longer any obstacle to the immediate carrying out of the first step, namely the acquisition of the majority of Skoda-Wetzler, before the complete merging of the two companies, as planned at an earlier stage. It is therefore decided that for this purpose, Messrs Haefliger and Schiller shall establish connections with Herr Fesenmeier with Secretary of State Keppler,"
we meet Keppler again in this transaction, -

"Keppler, the Reich Plenipotentiary for Austria, in order to hasten the execution of this step."

And further down under Item 3, Personnel; this is the meeting of the Commercial Committee:

"There exists complete agreement as to the fact that, in order to safeguard uniform Farben interests, all non-Aryans employed by the Austrian organizations, in accordance with the directives issued by Geheimrat SCHMITZ, should be given leave of absence, or should be dismissed at the earliest possible date. Likewise, the members of Aufsichtsrats and Verwaltungsrats, insofar as they are non-Aryans, are to be asked to give up their mandates"

I might say that in connection with Judge Morris' Inquiry, this fact, I think is illustrative of what we had in mind, that

directly with the spoliation or activities of that nature which we describe, we lay to crimes against humanity.

"Herr Schiller reports that he was asked to fill the gaps in the management of Skoda-Wetzler and DAG resulting from the elimination of non-Aryans, he says that this has partially been taken care of temporarily by the personnel procured by the Sales Combine Chemicals and by Berlin NW 7."

On Page 59 I might call your Honor's attention to page 81 of the German, the reference to a meeting of April 1938 where certain people participated in, as to Austria, and the minutes of that meeting are now being put before the Commercial Committee, so, before the Commercial Committee, you now have the April 1938 meeting.

Persons in attendance Haeffliger, Ilgner and Kuehne:

"As it appears from reports of Haeffliger - April 19, Haeffliger is reporting, Haeger and Schiller, which partly had been previously submitted in written form, and partly were again read during the meeting, neither the Party nor the authorities in Germany proper and in German Austria have any fundamental objections to our long-cherished plan of uniting the chemical industry of Austria".

And further down on the page:

Kuehne said he was willing to offer the services of Dr. Hackhofer, A German-Austria, for the active technical management of the Skoda-Wetzler works."

and as you read further down in the page.

"I.G. had been asked by the Kreditanstalt to make further suggestions for new appointments to the Verwaltungsrat. Schiller will give Johann the names of Herren Kuehne and Haeffliger & will give the report to Berlin."

On page 61, this is a meeting in June, 1938, and on that page they refer to some of the transactions we discussed, and they bring in Gattineau participating herein.

You will notice five lines from the top, Gattineau in Austria. Again you will notice at that meeting Haeflinger, Ilgner and Oster sitting in on that meeting, together with Schnitzler; and at page 63, which is 98 of the German, a meeting in October, 1938. You will notice the people present. They are discussing both Austria -- on page 62; they are discussing both Austria, and Czechoslovakia. There are Schmits, Schnitzler, Haeflinger, Ilgner Kuchne, Oster, Gattinuar and Kugler.

On the next page, top of the page, Dr. Ilgner reports on the discussions with Dr. Raffelsberger, state commissioner for Austrian private enterprise, concerning the stamping of the Aufsichtsrat and Vorstand of the Dano chemie.

"Since the Commercial Committee has given its consent, and since as a result of a discussion between Dr. Kuchne and Dr. ter Meer -- the latter, too, has consented on behalf of the Technical Committee".

And all that they need now is the agreement of Schmitz. Then further down,

"It seems expedient to combine the commission given at the meeting of the Vorstand on 17 June, 1938".

and you have got the whole Vorstand in here now, --

"to Dr. Kuehne and Dr. Buetefisch, that is, the handling of technical problems in Austria, with the commission given to Dr. Ilgner, namely the handling of general commercial problems. In such a way that in the future this body, with the assistance of the I.G. concerned, -- particularly Dr. KUGLER, for questions of dyestuffs, will be responsible for all general problems in Southeastern Europe that are of interest to the I.G. Dr. Kuehne

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said that this also was agreed to by Dr. ter Moor on behalf of the technical side".

You have got Kugler in here too, and at the bottom of the page, the members of the Verwaltungsrat. In addition to Kuchne and Ilgner, Dr. Lautenschlaeger gets on the board.

THE PRESIDENT: Mr. Prosecutor, if you can mark your place in this document, I think we will take our recess a bit early this morning, if it will not interrupt you too much.

MR. AMCHAN: I am through with this document, your Honors.

THE PRESIDENT: Very well, this is a good time to take the recess.

(In recess until 1115)

THE MARSHAL: Military Tribunal No. VI is again in session.

MR. AMCHAN: Page 4 of the index, if your Honors please. As Prosecution Exhibit 1070 we offer NI-2798. This is a confidential report on Austria dated 19 October 1938 presented to the Vorstand on 21 October 1938 and the report sets out all the facts and a historical recital of their activities. The importance here is in addition to the recitals it is brought home to the Vorstand. Page 81, if your Honors please, which is 98 of the German, second paragraph from the bottom.

"Following on this, Kuehne and Buotefusch make a report to the Vorstand on the technical condition of the plants."

And we bring them in and at page 86 beginning from -- which is page 102 and 103 of the German----

JUDGE MORRIS: Is there a typewritten number -- small number at the bottom? Our pages are not numbered. At least, mine are not.

MR. AMCHAN: I am sorry then. It's page 10 of the document itself.

JUDGE MORRIS: Thank you.

MR. AMCHAN: You might mark the entire page there and I will call your attention to the persons participating and you will also notice in the middle of the page a reference to a meeting of the Vorstand on 7 June 1948 where they are asked to deal with the Czech problem in Austria and further down Kugler comes in. Now, there's a chart at the end of this document and the chart is a tabular indication of the personnel before and after the acquisition of these plants and facilities.

As Prosecution Exhibit 1071 we offer NI-3982. It's a letter from Haefliger and Schiller, who was a Farben director, to Joham, the Director of the bank and he attaches there some letters. It's 28 March, describing some detailed facts in connection with negotiations and the documents now coming along will show exactly what happened in the various stages of this negotiation.

Page 90, if your Honors please, 120 of the German. This is a letter from Haefliger, 29 March 1938, directed to Joham at the Creditanstalt-

Bank. You will notice the second paragraph in the middle:

"We"—this is on behalf of I. G. Farben — "offered our services at your request, immediately after the political change, for an interim management of the affairs of Skodawerke-Wetzler.

"Our conference today was for the purpose of discussing the new situation. The resignation of influential members of the business management of the Skodawerke-Wetzler makes it imperative for you to appoint new people."

And then on the next page 91, which is 122 of the German the last paragraph:

"We have already been to see Minister Fischboeck —" that is the Minister of Economics in charge of these matters — "today in this matter, and he —" the Minister — "is awaiting a written request from your firm."

Now, the next page is the request which the Creditanstalt sent to the Minister and you will notice at page 93 at the beginning of the letter from the Creditanstalt to the Minister of Commerce and Communications, 31. March 1938 and as you read the letter you will see it is practically incorporating the suggestions of Haefliger as to the nature of the letter to the Austrian authorities.

Now, page 94, which is 120, the last paragraph, you get this interesting language:

"We venture to add that the resignation of influential members of the managing board of the gunpowder factory made necessary an immediate settlement of the personnel problem and we therefore welcomed the suggestion of I.G. Farben, that Herr Guenther Schiller, a former member of the Verwaltungsrat, etc., should be appointed as a member of the Vorstand and a director of the industry."

As Prosecution Exhibit 1072 we offer NI-3981 and these are the confidential notes that Haefliger kept in connection with his stay. Now, at page 96, which is page 127 of the German you note the date of Haefliger's notes. 6 April 1938. He has his diary. March 29; discussion with

Joham and Pollack and as you follow his diary, of course, being his version of the facts then on the preceding documents you see how they tie up. On page 97, under 30 March 1938, it's quite significant we think. He has a discussion with Dr. Veessenmayer assistant to the State Secretary Keppler -- about four lines down:

"I also explained to Mr. Veessenmayer that there is no reason for concern, if the I.G. should be forced by the situation to send some of their members into the executive and supervisory boards of Skoda-Wetzlar and Deutsch-Witrei."

That is the other chemical company we will discuss later.

"This would be necessary in order to maintain activity and give assistance. The official point of view, to employ Austrians, wherever possible, is known to us. We have already taken this official point of view into account, when we have trained some Austrian gentlemen already for several years."

And in that connection you remember an affidavit I read a minute ago about Neubacher, the Mayor of Vienna, being employed in I.G. Farben's NW-7. You might also note the next one. He had a meeting on 2 April with Mr. Keppler and although discussing Austria, and, this is April 1938, you will note from that paragraph he is sounding out Keppler as to his views on Farben's penetration into Czechoslovakia through May 1938.

As Prosecution Exhibit 1073 we offer NI-7390. I think this is a typographical error. It's 7390. It's a letter from Guenther Schiller, the Farben Director, to the management of the Creditanstalt, dated 8 April 1938 and informing the bank of his appointment to the Vorstand of the bank. That's at page 100 and it's 131. The letter is kind of short and you can see it yourself.

Now, NI-4024, which is on page 1 of your index is already in evidence as Exhibit 1040. I think it would be appropriate to consider it immediately following this, 8 April 1938, because this NI-4024, being Exhibit 140 at page 24 and 23 of the German, the date, 9 April,

the next day, and this is a letter from Haefliger to State Secretary Keppler. It gives a little background of the Austrian chemical industry and at page 26, which is page 34, after describing their previous attempts at trying to get the majority interest in Skoda-Wetzlar he states:

"In view of the re-incorporation of Austria these negotiations were at first interrupted on the one hand as a result of the fact that the controlling parties participating on the Austrian side in these negotiations were not Aryan and, on the other hand, pursuant to the decree of 19 March 1938, imposing restrictions on the establishment of commercial and industrial enterprises in Austria.

"It is very urgent to bring such negotiations to a speedy conclusion."

And under "b" in the middle there he says:

"In order, however, to keep the Austrian chemical industry going it will be necessary to, as speedily as possible, shift wherever required certain types of production from the old Reich to German-Austria and vice-versa."

And "c".

"The groundwork should be laid immediately to prepare assignments to be carried out by the chemical big industry of Austria within the framework of the Four Year Plan."

We call attention to this particularly, indicating the representations made by Farben to the government officials, the purposes for which, among other things, they sought the acquisition of these plants to integrate its products as appears from here to the Four Year plan and as a consequent preparation.

You will note on page 27 Haeffliger being the author of that.

Now, on page 1 of the index again is NI-7133 which I think could very appropriately come after here and we offer it as Exhibit 1074. It's NI-7133 and will be Exhibit 1074. That appears on page 28. Your Honors will note the date. It's 36 of the German, 12 April 1938. It's a memorandum by Buetefisch to the military officials and you will see toward the bottom of the page that he gives them a report of the military angle of this plan.

As Prosecution Exhibit 1075 we offer NI-4456. They are a series of letters in May of 1938 from Frank-Fahle to the members of the Commercial Committee. The sequence set forth in the table of contents are not consistent with the order in the Document Book. At page 101, 132 of the German, in the middle of the page you will note that Herr Dr. Gattineau has been provisionally nominated for the execution of necessary measures and for liaison with the Vienna authorities.

And then the next reference that Ilgner is to give a detailed report and all measures regarding personnel and organization in Austria shall have to wait and no action shall be taken without first conferring with Dr. Gattineau and you note copies went to Kuehne and Kugler. It appears on the bottom on the left-hand side.

Page 102 is another one of the letters, at the bottom of the first paragraph, that no action as to organization would be undertaken in Austria without first clearing with Ilgner. Again copies to the defendants Kuehne and Kugler, and at 105 in the middle of the page, which is 135, we see a reference to conversations with Austrian officials, and again Dr. Ilgner and Dr. Gattineau were present at the conferences.

On the next page again the distribution to the defendants Kuehne and Kugler.

As Prosecution Exhibit 1076, we offer NI-9631. It is a draft of a letter from Farben to the Austrian State Commission of Private Economy, Rafelsberger. That is the fellow whose affidavit we had a moment ago. It is 24 May 1938, and again sets out Farben's plans. Now in this letter Farben encloses the report which Hegfliger submitted to Keppler of April 9, a report which we identified under NI-4024, as Exhibit 1049, and at page 107 you will note at the top of the page the reference to the enclosure, and at page 108, which is 138 of the German, the fourth paragraph:

"Finally, it must also be borne in mind that the Four Year Plan for Austria, still to be announced by official quarters, will entail further large demands in the field of chemicals."

Again Farben explaining to the Austrian officials it's purpose to put the plant to use to carry out the four year plan.

And on the next page 109, the same reference appears. As Prosecution Exhibit 1077, we offer NI-9624 —

JUDGE MERRELL: Pardon me, Mr. Prosecutor, does the original document show who signed this letter on behalf of Barben? I note on page 109 of our book it is merely signed "I.G. Farben Industry".

MR. AMCHAN: I will try to take a look at the actual thing and inform your Honors. It does not - it does not. We might try to elicit that by some further investigation but the document itself does not show it. We

have indicated, Your Honors, that was a draft of a letter in the table of contents and it so appears on the document itself. Now if any further investigation is necessary we will inform Your Honors in due time.

As Prosecution Exhibit 1077, we offer NI-9624. This is a letter from the Austrian Commissar in Private Economy to Farben. It is dated 2 June 1938, approving purchase of the Skoda Werke Wetzler from the Credit Anstalt. You can see that from page 111, the first paragraph and it is quite brief.

As Prosecution Exhibit 1078, we offer NI-9623. This is a copy of a letter from Mayer Wegelin; Wegelin was on the legal staff of I.G. Farben, to the bookkeeping department. It is dated 22 July 1938, and they inform the bookkeeping department of a special retainer for a lawyer in Austria to look after their affairs. It is quite an interesting retainer. At page 112, which is 142, it is dated 22 July 1938:

"For special reasons an agreement was made with Attorney Dr. Walther Ritscher, Vienna 1, Am Hof 6, who has taken over the office of Dr. Seyss-Inquart, according to which he will give legal advice for a period of two years beginning 1 June 1938, for a monthly remuneration of 1,000 Reichsmarks." And it is to be charged to the cost of promotion of Donahchemie AG. I think Your Honors will take notice as to who Seyss-Inquart was with reference to Austria, that his law partner was retained to look after their interests.

As Prosecution Exhibit 1079, we offer NI-11259. It is a letter from Farben to the Credit Anstalt, 10 June 1938, enclosing a draft of the contract between the bank and Farben, concerning the sale of the bank stock, with respect to Skoda Wetzler to Farben. At 114, which is page 144, the recitals in the agreement I think are interesting: The second paragraph:

"The economic conditions which have been changed through the incorporation of Austria into the German Reich make it appear desirable to

combine the above Austrian chemical factories under the management of I.G. in order to ensure their future development in this way."

And then you get a recital of the negotiations and formalities of a contract.

As Prosecution Exhibit 1080, we offer NI-7393. There is a typographical error in the index. It should be 7393. These are excerpts of correspondence between Farben and the Credit Anstalt with respect to the acquisition of shares and the correspondence in itself indicates forms against substance.

We are prepared to continue with Book 53. The first few documents still relating to the Skoda Wetzler Works. This loose map that, Your Honors may have, put it on page 62 of your book.

THE PRESIDENT: Sixty-two?

MR. AMCHAN: Immediately preceding 62 would be its appropriate place.

Will your Honor pardon us for a moment. There is a question raised on the document with respect to NI-11259, which we just offered as Exhibit 1079. I think Your Honors could put a question mark after that because counsel calls our attention to the photostat. This is a draft. It appears that it is a copy and the enclosure is a draft. We would like to defer further discussion of it to confer with our analyst as to precisely what it is. The fact of the first letter indicates it is a copy and the enclosure states it is a draft, and I understand that is what counsel is calling my attention to.

THE PRESIDENT: Very well.

DR. NATH (Counsel for the Defendant, Dr. Ilgner): Your Honors, this document has no signature either. At any rate no signature can be seen from the document which has been read. I would be grateful to the Prosecution if they can obtain the signature.

MR. AMCHAN: I will hand the document up to your Honors, because on

the left hand side appears a signature of an official of the Credit Anstalt Bank as of this date to the effect that these are certified copies which they have, but I think no further discussion would be of any useful purpose. I will just hand it up to your Honors and any questions of detail we can discuss between ourselves and inform Your Honors about it.

THE PRESIDENT: Very well.

DR. NATH: That is a sound suggestion. It is only a certification which is missing.

THE PRESIDENT: Very well. We shall be glad to inspect it. Just a moment, please.

MR. ANCHAN: Your Honors, we believe it will be helpful and we will furnish a statement from the Credit Anstalt also explaining the significance of the signature on the left hand side which I think will cover the situation.

THE PRESIDENT: Very well.

MR. ANCHAN: As Prosecution Exhibit 1081, we offer NI-8577. It is a secret memorandum from one Ohlinger, Secretary of the IG Chemical Firm to Farben's lawyer, Meyer Wegelin, enclosing excerpts from the minutes of the Chemical Committee of Farben of the 25 July 1938, in connection with the acquisition of the Skoda Wetzler shares. No oral discussion is necessary in connection with that document, but I just ask Your Honors to note that Kuchne on the fact of the document is given something to do in connection with the matter there discussed.

As Prosecution Exhibit 1082, we offer NI-7395, it is a letter from Ilgner and Buhl, who was also on the Vorstand at the Credit Anstalt, dated 6 October 1938, and in this document you will see the details of the agreement with respect to the transfer and acquisition of the shares of stock.

As Prosecution Exhibit 1083 —

DR. ASCHENAUER: Counsel for the defendant, Gattineau:

Your Honors, with respect to document Prosecution Exhibit 1082 I should like to draw the attention of the Tribunal to page 8 of the German text. I am afraid I don't know the page number of the English text but it is the beginning of the document: It reads and I quote: "176, 765 shares in the powder plants of the Skoda Wetzler works, AG has a nominal value of 35 schillings each." I compared this with the original and in the original it says: "180" I just want to make this correction for the record.

THE PRESIDENT: Now since we will have to depend upon your calling our attention to the place, it is 176, 765 shares, is that the item?

MR. AMCHAN: I think I have it, if Your Honors please.

THE PRESIDENT: Very well, help us if you can.

MR. AMCHAN: The English says "180" which is correct, and the German says 176, which is an error, and it is correct in the English book which Your Honor have.

THE PRESIDENT: Very well.

DR. ASCHENAUER: This will clarify this error.

MR. AMCHAN: As Prosecution Exhibit 1083, we offer NI-5194. Again it is a Schnitzler affidavit on Austria and I will merely ask Your Honors to mark it, because the Schnitzler affidavits have to be read entirely and I will ask Your Honors just to mark it please.

At page 7 of your document book, beginning under item 3, part 3, all of page 8, and then of page 10 that is where he concludes that statement. On page 11 under part E he makes some modification of his previous statement and on page 12 under item 5 begins the statement and that extends over to page 13. There is a further interrogation, the next 3 pages, and then at pages 18 through 20, there is a further portion of his affidavit dealing with the Austrian activities, and it stops at page 20, up to No. 8. I say the Schnitzler affidavits when read alone

have more significance.

As Prosecution Exhibit 1084, we offer NI-8456. It is an affidavit of Haeffliger in May 1947, giving his version of his participation in the Skoda Wetzlar affair. We just note it as his version of the affair.

As Prosecution Exhibit 1085, we offer NI-9163. This is an affidavit of a Farben's Director, Guenther Schiller, in July 1937 on, his participation in this affair.

Page 53, if Your Honors please, gives a little background about himself, and the next to the last paragraph, which is 45 of the German he says:

"General director Pollack of the Skoda Works called me up immediately after the Anschluss and asked me to call at this office. There he handed over his desk to me and said that re-shaping made it impossible for him to go on working and that I was to take his place along the lines of our negotiations conducted during the previous years. With the consent of the controlling members of Farben, I followed his wishes."

That is Schiller's version of his participation.

As Prosecution Exhibit 1086 we offer NI-7384. It is a letter sent to OCC by an official of the Credit Anstalt in May 1947, listing according to the records of the bank, the various transfers which the bank was compelled to make the German firms in connection with the credit Anstalt.

DR. ASCHENAUER: Mr. President, I object to the admission of this exhibit.

THE PRESIDENT: Will you please state your name? Please state your name first.

DR. ASCHENAUER: Dr. Aschenauer, Counsel for the defendant, Gatti-neau:

I object to the admission of this document in evidence, It is not admissible as evidence.

THE PRESIDENT: Will you state the number of the document for the record? Now, so we have it?

DR. ASCHENAUER: Document NI-7384, Exhibit 1086, which was offered into evidence. This is not an admissible document. Admissible are affidavits or captured documents, such as are covered by the original Coogan affidavit. Here, however, we are concerned with a private letter of the Creditanstalt Bank Verein, dated 31 May 1947. Submission of the assertions contained in this letter would only be admissible if the persons who had signed these letters, Dr. Schiefel and the other person whose name is here illegible, would repeat those assertions in the form of an affidavit. Here we only have an assumption which may perhaps justify a further investigation but which cannot be considered to be admissible as evidence.

THE PRESIDENT: What do your accompanying certificates show as to the source of this document, Mr. Prosecutor?

Mr. AMCHAN: I have an affidavit here from an employee of OCC. Now as you can see from the document before you it is a letter unverified not sworn to, sent to us. Now the Investigator of OCC who secured the letter discussed with the officials in connection with his investigation certain matters and requested him to write him about them and that is the letter. Now we have here the affidavit of our Investigator to the effect that this letter came to him in the course of regular business. Now it is not sworn to. I can say, I think though under the liberal rules of evidence which are set forth and indicated in ordinance No. 7, that this was something received in the regular course of the affairs of the OCC as an official matter, it would not bar its admissibility, although Your Honors may, if you see fit, attach some different weight. It would, of course, have been better to secure the affidavit and take it under oath, but being that as it may, what we have is a letter not verified.

DR. ASCHENAUER: Your Honors, may I reply to that? At the beginning

of this letter it says: According to your desire we take the liberty of informing you that during the German occupation of Austria, owing to the pressure by the German authorities, we had to cede the following participation. The letter is addressed to Mr. Werner Leewald, who went to Vienna in order to investigate matters concerning Austria. Consequently Mr. Werner Leewald actually had the possibility to get an affidavit from him. Defense counsel here are now confronted with the problem of a cross-examination of these people who have signed this letter as very strong attacks against I.G. are contained in this letter, consequently a cross-examination would be very important, especially since we are concerned with an unsworn document with a private letter. We cannot cross-examine these witnesses under the rules and for this reason I ask you not to admit the document in evidence.

MR. SPRECHER: I think counsel's point is well taken and I hadn't personally known of the lack of an affidavit or we should have taken some steps earlier but as I understand it, before we noticed it, the matter had been reproduced.

THE PRESIDENT: Then may we not dispose of the matter in this way: Allow the document to retain its number as an offered exhibit and have the record show that it has been offered by the Prosecution but that it's admission is suspended.

MR. SPRECHER: Yes sir,

THE PRESIDENT: Until the matter is determined.

MR. AMCHAN: If Your Honors please, that concludes our documentary proof on the Skoda-Wetzler, and before leaving Skoda-Wetzler I should like to call attention to a feature of the indictment with respect to this. On page 71, which is paragraph 90 in the Page 71, paragraph 90, the first paragraph. The charge as made in the Indictment is, among other things, second sentence:

"The Rothschilds, a Jewish family, owned the majority interest in the bank. With the invasion of Austria and the introduction of the Aryanization program, the controlling Rothschild interest in Creditanstalt was confiscated and turned over to the Deutsche Bank."

Our investigations and some of the testimony from some of those defendants before trial led to that conclusion. Our subsequent investigations have convinced us that the Rothschilds had sold their interest long before this thing. Accordingly, we shall not rely - in fact, we withdraw the allegation with respect to the Rothschild ownership. The Aryanization feature of the case, however, is still present because, in the evidence we have submitted, we've shown the membership in the Vorstand of the bank and in the chemical plant being persons of the Jewish faith and the means used to oust them. We were only mistaken in the limited fact in that we were under the impression that the Rothschilds still held their controlling interest. We're withdrawing that limited allegation.

Dr. Newman is prepared to continue with the presentation of the documents in connection with the other chemical plant of Austria which was subject to the spoliation activities of Farben.

THE PRESIDENT: Just a moment, please. The Tribunal understands that your remarks relative to the withdrawing of the allegation concerning the Rothschilds applies to paragraph numbered 90 in Count II of the Indictment.

MR. AMCHAN: That's correct.

THE PRESIDENT: The record will so show.

MR. AMCHAN: One of the purposes in pointing that out is so that the defense will not undertake any preparation of anything which is not in issue.

THE PRESIDENT: Very well.

Counsel may proceed with the proof.

DR. NEWMAN: If Your Honors please, we shall now turn to the second group of cases which we charge constitute spoliation in Austria, the acquisition by Farben of the two Austrian enterprises Carbid-Werk Keutsch Matrei and Dynamit-Nobel A.G. In order to make our evidence better understood, we first submit, as Prosecution Exhibit 1087, a very concise chart, certified by Farben Director Kurt Krueger, together with an excerpt from his affidavit, sworn to on August 2, 1947, which we shall present in full later in this case. We are presenting this chart here in order to show the participation of I.G. Farben in the Dynamit-Nobel A.G. before it acquired full property. As the chart shows, Farben held the majority interest in the German Dynamit-Nobel A. G., the so-called DAG Troisdorf. The German Dynamit-Nobel A. G., in its turn, held a small majority in the Czech Dynamit-Nobel A.G., the DAG Nobel Bratislava. The German equivalent for this is Pressburg. And, in turn, the Czech Dynamit-Nobel A. G. held a 100% participation in two corporations with which we have to deal now, both of them located in Austria; to wit, the Carbid-Werk Deutsch-Matrei and the Austrian Dynamit-Nobel A. G.

THE PRESIDENT: If counsel pleases, just in order that we have our record reflect the situation. Is the chart to which you refer the chart that was handed us this morning?

DR. NEWMAN: No, this chart has been a part of the book since the book was compiled. It is 11351 and it is page 58 of the English book and page 50 of the German book.

THE PRESIDENT: Thank you very much.

DR. NEWMAN: Your Honors will recall that we discussed the meaning and importance of the Dynamit-Nobel concern at some length in connection with our Book 12, English book page 45 to 83, and German book pages 27 to 65. When we assert that the two Austrian enterprises were the subject matter of spoliation, the question could arise in connection with this chart and the facts established therein, why I.G. Farben was interested in acquiring two enterprises which, with the two Dynamit-Nobel corporations, it controlled anyhow. The answer is partly given by this document before us, 1087, and that is another reason why we are presenting it here. I would like to read the first paragraph of this affidavit by Kurt Krueger:

"It is true....", he says, "..... that, even before the Anschluss, these enterprises....", he is referring to the two Austrian enterprises, ...were affiliated with Farben; but full control of them could only be attained through Czechoslovakia, i.e. through the Czech authorities. Farben controlled in fact Dynamit-Nobel A. G., Troisdorf;...", Germany, "Troisdorf, in its turn, controlled only 51% of Dynamit-Nobel A.G., Pressburg (Bratislava); and the last-named, in consequence of its geographical location, was dependent on the Czech government in all its transactions involving foreign countries."

Now, from the Czech angle, the two Austrian enterprises were located in a foreign country.

"Dynamit Nobel A.G., Pressburg, owned 100% of the two Austrian enterprises Deutsch-Matrei and the Austrian enterprises were located in a foreign country.

"Dynamit Nobel A.G., Pressburg, owned 100% of the two Austrian enterprises Deutsch-Matrei and the Austrian Dynamit Nobel A.G."

And I would also like to refer, in this connection, back to our Document Book 52, Exhibit 1070, just offered by Mr. Amchan. That is page 79 of our book 52 and page 95 of the German book. This was a re-

port on Austria for the meeting of the Farben Vorstand on October 21, 1938. I am quoting shortly from page 79, 95 of the German book:

"For all practical purposes, no influence on the business management could be wielded by Farben since they possessed only a slight majority exercised through Czechoslovakia."

That is why Farben was interested in bringing these two Austrian enterprises into their direct control,

Our next exhibit, 1088, is the Document NI 9593. It is another introductory document, giving a far more detailed description of all the enterprises involved here. It is a report prepared by Farben's Vowi,

Our next exhibit, 1089, is a report on the chemical organization in Austria. That is NI 8588, page 70 of the English book and 102 sequentis of the German book. It is a report on the chemical organization in Austria by the Farben lawyer, Dr. Mayer-Wegelin, dated June 22, 1938. The story as given here is so complete that it makes other evidence

as to this point almost expendable. In order to make the one paragraph which I would like to read here more fully comprehensible, we should be aware of the fact that the leading figure in the Czech Dynamit-Nobel

A.G., Mr. Irving Philipp, was a Jew. This fact was emphasized by Mayer-Wegelin when he gave reasons why the Deutsch-Matrei should be acquired from the Czech Dynamit-Nobel A. G. at a fraction of its value. I am now going to quote from page 2 of the English stencil, that is page 71 of the English book, and page 103 of the German book. Mayer-Wegelin says I quote:

"Deutsch Matrei belongs 100% to Dynamit Nobel Bratislava. At the beginning of July there will be a conference in Budapest with Mr. Philipp about the acquisition of these shares (at the same time about the acquisition of 100% of the stock of the Austrian Dynamit Nobel A.G.). The purchase price will be substantially better insofar as Bratislava....", that is the Czech Dynamit Nobel A.G., "on its books, shows both participations (Austrian Dynamit Nobel and Deutsch Matrei) together at the

the value of approximately 1,200,000 Reichsmarks, as verified by Dencker, while the Vienna book values amount to 6,700,000 Reichsmarks...", that is, more than five times as much, "...and the gentlemen from Vienna estimate the net assets, including reserves, at approximately 14,500,000 Reichsmarks. Bratislava must on the one hand reckon that if ownership conditions remain the same it is doubtful whether the Austrian participations will continue to be profitable."

Now he says in brackets:

"(reduced proceeds through assimilation of prices, difficulties as a Jewish enterprise, surrender of dividend law, etc.), and on the other hand it has no practical interest in big proceeds, since in Bratislava the latter appear predominately as book-profits and 66% of them would be paid away in taxes."

Our next seven documents concern the purchase by I. G. Farben of two enterprises, Deutsch-Matrei and the Austrian Dynamit Nobel A.G., from Dynamit Nobel A.G., Bratislava, and the applications in order to get a license for this deal from both the German and the Czech governments. By these seven documents we want to show first, the disproportionately low price paid by Farben for the two enterprises, and, second, the purpose for which Farben acquired them, that is, to further the Four Year Plan.

Our first document in this connection is Prosecution Exhibit 1090, NI 8349. It is the agreement between the Czech Dynamit Nobel A.G. the owner of these two Austrian enterprises, as seller, on one hand, and the German DAG Troisdorf and Farben as buyers, on the other hand. It is signed for Farben by the defendant Ilgner and the late Farben lawyer, Kerston, and it is dated Budapest, July 9, 1938, and, at paragraph 6 of this agreement, both parties promise to procure, as quickly as possible, the requisite concurrence - that is, the license - of the two governments concerned.

Our next document, Exhibit 1091, Document NI 9630, is a letter by

Farben, dated July 18, 1938, signed by Frank-Fahle and Kersten, and addressed to the Reich and Prussian Ministry of Economics. In order to get the approval of the Ministry, Farben points to the importance of its acquiring the Austrian Dynamit Nobel A.G., the Carbid-Werke Deutsch-Matrei. I would like to shortly quote from page 1 of the English stencil, that is page 76 of the English book, and 109 of the German book. This is what they say:

"Since the 'Anschluss', it has become a matter of urgent necessity that our plans should be carried out, as the development of the Austrian economy, its coordination with the armament plan and Four Year Plan, and the increase in cooperation with South-Eastern Europe have confronted the above plants with important tasks."

Farben also points to the fact that it has already received the approval of the Austrian Commissar Private Economy, Rafelsberger. And may I, without reading it here word by word, particularly refer Your Honors to the most important part of this letter, dealing with the purchase price? That is page 77 and 78 of the English book and 110-111 of the German book, beginning with the words: "In establishing the purchase price..." That is in the middle of page 77: "In establishing the purchase price..." up to page 78, in the middle of the page again, ending: "...interest charged accordingly." Out of this part I would like to read here just one paragraph on page 77, to wit, this. It is the last but one paragraph on page 77 and beginning on 111 of the German book:

"Since 1931, Dynamit Bratislava has had a regular income from dividends from its Austrian participations, as follows:"

Now the figures are given in detail, the aggregate amount being 226,700 Reichsmarks.

"It has now been agreed that, taking as a basis the profit regularly paid and transferred hitherto by the two Austrian companies to DAG Bratislava, 25 yearly installments of 226,700 Reichsmarks each shall

be paid for the transfer of the holdings to the German purchasers."

I would like to point out what the gist of this agreement was. Farben was to pay exactly the dividend which, since the year 1931, these two enterprises, which Farben was going to acquire, actually had paid to its parent corporation for twenty-five years and, in turn, Farben was to receive the enterprises at once without any further consideration.

I think I may conclude here before the recess.

THE PRESIDENT: Today we shall reconvene at 2:00 o'clock or very shortly thereafter.

The Tribunal will now rise for its recess.

(A recess was taken.)

AFTERNOON SESSION

(The Hearing reconvened at 1405 hours, 22 Oct. 1947)

THE MARSHAL: Military Tribunal VI is again in session.

DR. HEINZELER (Counsel for Dr. Wurster): By order of the American prison doctor, Capt. Martin, who examined Dr. Wurster this morning, Dr. Wurster will not attend the session this afternoon.

THE PRESIDENT: On the information furnished, the Defendant Wurster will be excused from personal attendance.

MR. SPRECHER: Mr. President, with your permission, I would like to interrupt the presentation of documents only for a minute to present to you Mr. Van Street, who will later present some documents concerning Count 3. He has a problem and an announcement he would like to make.

THE PRESIDENT: We will be glad to hear him.

MR. VAN STREET: May it please the Tribunal, in line with the Prosecution's every effort to expedite the trial of this case, we at this time would like to present to the defense counsel a limited number of copies of five different affidavits. Now, we propose to put these affidavits into evidence within the next ten days to two weeks, and we respectfully ask Defense Counsel to analyze these affidavits as quickly as possible with a view to advising the Prosecution as to whom of these affiants they wish to call.

Now, I would like to emphasize that we at this time are giving you a limited number, but we are giving you all that happen to be available.

Now, one other matter in respect to Part A of Count 3 of the indictment--and this is directed principally at Defense Counsel. The first book, Book No. 67, was delivered in error and prematurely before it was checked and before it was conformed with the English translations. Now that is being recalled, and I would simply like to ask the cooperation of Defense Counsel to get those copies back as quickly as possible in order that the German and the English can be prop-

erly conformed.

My friend Mr. Sprecher has just brought up one point which is rather pertinent in connection with these five affidavits. All of these affiants reside in foreign countries, so I think it is proper to act on the matter as quickly as possible.

Thank you very much.

MR. NEWMAN: As Exhibit 1092, NI-8633, we offer another contract between the same parties, that is, between the Czech Dynamit Nobel, as seller, and the German Dynamit Nobel and I. G. Farben, as buyers of the two Austrian enterprises.

We then submit as 1093, NI-8632, another oral contract between the same parties, Farben being represented by the Defendant Gattineau and the late attorney Kersten.

If Your Honors permit, a one-minute excursion into the realm of taxes may be allowed here in order to make these two documents better understood. They are both called oral contracts. It is not meant by that that they are provisional in character or of minor importance, but taxes were attached to written agreements, and since contracts of some importance had to be reduced to writing it was a popular method at that time just to make statements before a witness, and the witness then in his turn took it down. That is what happened here.

And another point is this: From our document already submitted, 1092, it appears that the purchase price for the two enterprises amounted to twenty-five yearly installments of 226,700 Reichsmark each. Now, the last two documents, as Your Honors will notice, give different figures. The one in 1092: 136,700 and the second one being labeled a non-competition clause, the balance of 90,000 Reichsmarks. We are not going to charge that this is any violation of the tax law. In fact, we are not interested in that, and we may assume it was proper and within the law, but we do not want to have any confusion on this point. In fact, all these figures amount to exactly

the same, the purchase price being 226,000 Reichsmarks in twenty-five installments, but being split up for tax purposes into two amounts of 136,000 and 90,000.

We offer 1094; that is NI-8631, the licenses applied for by I. G. Farben for the purchase by Farben of the two enterprises. The license is granted in this document, which is Page 88 of the English book and 121 and 122 of the German book. In most of these contracts just presented, the seller, that is the Czech Dynamit Nobel A. G., was represented by Mr. Erwin Philipp—and we already emphasized that Philipp was a Jew.

Before we are going to deal with the licenses applied for by the parties from the Czech government, in order to have this deal accomplished, this might be the proper opportunity for introducing our Exhibit 1095. That is NI-2547, a file-note by Farben's then director Ernst Rudolf Fischer on discussions with Mr. Philipp concerning the reshaping of the supervisory board and the board of managers of the Czech Dynamit Nobel A. G., dated November 14, 1938.

Your Honors will note that by inadvertence the accompanying letter accompanying this memorandum is filed behind—rather than before—the accompanied memorandum, so that Page 94 of our English book—that is 132 of the German book—should be properly placed before Page 91 of the English book and Page 125 of the German book. This accompanying letter indicates it was distributed to, among others, the defendants Buetefisch, Haeffliger, Ilgner, Kuchne, and Gattineau.

We should like to quote from this memorandum, Page 92 of the English book—that is Page 127 of the German book. I quote: "The Commercial Committee agreed in principal that Herr Philipp is no longer bearable in Bratislava." Incorrectly, the translation says here "must leave Bratislava," but the German text says "is no longer bearable". Rudolph Fischer says—"I did not discuss this point with Phillip as I do not recommend its discussion as long as the decision

of the Prague government and the National Bank concerning the sale of the Austrian enterprises at Bratislava is still pending. It would probably be very easy for Philipp to create difficulties for us in Prague, and we must at least reckon with this possibility. Besides, I consider it more prudent to let Philipp himself bring about the resignation of the Czech and Jewish members of the Bratislava administrative council. Furthermore, Philipp must obtain the consent of Philipp Weiss, the representative of the minority. Herr Philipp would hardly agree to do all this if he himself were asked by us to resign."

and then the last paragraph, bottom of Page 92, and Page 128 of the German book: "The Slovakian authorities must be brought to recognize the validity of all these reasons which argue against the immediate dismissal of Philipp."

Q. We are now offering prosecution exhibit 1096, that is NI No. 8586. It is a file note signed by Kersten, December 13, 1938, page 95 of the English book and 135 of the German book. It appears from this letter that the Czech government rejects the application in order to accomplish this deal and I would like to quote from the second paragraph of this letter:

"The Political Economy Department at once contacted Ministerialrat Dr. Bergemann of the Reich Ministry for Economics and requested that the German government committee take up the matter at the negotiations now going on in Berlin between the German and Czechoslovak governments and press for the sanction of the contract. Dr. Bergemann promised that this should be done."

We would then like to offer Prosecution Exhibit 1097, that is NI 8586. This is the letter mentioned before, written by Farben to Ministerialrat Dr. Bergemann.

JUDGE MORRIS: Pardon me, Counsel. I believe there is confusion. 8586 is in evidence as Exhibit 1096.

MR. NEWMAN: I beg your pardon, your Honor, that is the same exhibit, as it is the accompanying memo to the letter just submitted.

JUDGE MORRIS: Very well.

THE PRESIDENT: At what page is that found in your book?

MR. NEWMAN: At Page 96 of the English book, and 136 of the German.

THE PRESIDENT: It is a part, really, of the same exhibit?

MR. NEWMAN: Yes, I would like to strike out No. 1097. It is a part of our Exhibit 1096. I quote the second paragraph of this letter. Page 96 of the English book.

JUDGE MORRIS: You have NI 85 --

MR. NEWMAN: It is NI 8586.

JUDGE MORRIS: And in that you have two exhibits: 1096 and 1097?

MR. NEWMAN: No, it was my error. I would like to have just 1096.

It is the same NI number, and should be the same exhibit number.

JUDGE MORRIS: All right.

MR. NEWMAN: The second paragraph of this letter, Page 96, in the German 136, reads as follows:

"After the Anschluss of Austria, the harnessing of the Austrian economy to the Four-Year Plan and the rearmament program brought with it the necessity of introducing a new order into the Austrian chemical industry. This will be done by amalgamating Pulverfabrik Skoda-Wetzler -- that is the company that was mentioned this morning-- with its subsidiary company and Carbidwerk Deutsch-Matrei A.G. with its subsidiary companies for purposes of organization and production. In addition, the Austrian Dynamit Nobel A.G. is to be brought into the German program as a whole in close cooperation with Dynamit A.G. Troisdorf."

We then offer Prosecution Exhibit 1097, this is NI 9629, a letter written by Farben's Viennese attorney, Dr. Walter Richter, to Farben lawyer, Mayer-Negelin, dated April 21, 1939. It again deals with the rejection of the license by the Czech Government, but adds that, and I quote from Page 99 of the English book, that is Page 139 of the German book, first paragraph:

"Now I.G., by intervening in the German-Czech economic negotiations, is attempting to bring about a revision of this refusal. But in the meantime the Prague Ministry of Economics has lost its jurisdiction and since the breaking away of Slovakia it is the new Ministry of Economics in Pressburg which decides. The I.G. has already presented a petition there in order to obtain the authorization which it still needs."

Our next is 1098, document NI 8634. It contains the license of the newly established Slovakian government for I.G. Farben to acquire the two Austrian enterprises. It is dated June 21, 1939.

We then offer as Prosecution Exhibit 1100, that is NI No. 9625,

an oral contract between the Farben firms constituting --

THE PRESIDENT: That exhibit number?

MR. NEWMAN: It is 1099.

THE PRESIDENT: Yes, thank you.

MR. NEWMAN: And NI 9625. This is an oral agreement again among the firms constituting Donachemia A.G., to which the newly acquired Pulverfabrik Skoda-Wetzlar and Karbidwerk Deutsche-Metrol are added.

I would like to quote from the articles of incorporation, just one article on Page 102 of the English book, 143 of the German book:

"Article I:

The contracting parties shall conduct their business in such a way that it is possible for each and all of the contracting parties to fulfil the tasks set them by the incorporation of Austria into the German Reich and by the Four-Year Plan as rapidly and with as great regard for the economy as possible. "

Our next exhibit is No. 1100. It is NI 9628. This document and the next one deal with the dismissal of non-Aryan employees in the enterprises newly acquired by I.G. Farben.

This is a letter written by Farben lawyer Mayer-Wegelin to Farben's Viennese lawyer, Herbert Musko, dated November 17, 1939. I am just reading the first sentence, that is Page 105 of the English book and 146 of the German book. He says:

"I have settled Mr. Kaeufler's case, - as the first of the non-Aryan cases, - with the sum of RM 16,000. This is about 60 percent of his legal claim, whereas the sums guaranteed him under the contract would naturally amount to much more."

Then a copy of his contract is enclosed with it.

The next document in this connection is Prosecution Exhibit 1101, NI 9627. I would like to read from Page 107 of the English book and 148 of the German book, the second paragraph. The letter is addressed to Mayer-Wegelin, by the Austrian attorney:

"For your information, I may add that Dr. Kuehne has empowered Dr. Nuske to settle with the non-Aryans without further negotiation, for not more than 60 percent of the amounts to which they have a legal claim."

Our next is 1102, NI 8576. It is a memorandum by Farben lawyer, Mayor-Wegelin. We are just presenting it here, and I trust that the copy before Your Honors gives the correct date as June 20, 1939, rather than 1947.

This document gives a short survey of the situation we have described so far, and it has been inserted for this purpose only.

We then offer Prosecution Exhibit, 1103, that is NI 9626. It is a report addressed to Farben's southeastern Committee from Donauesmühle A.G. The report is rather involved. The Prosecution intends to show by this report that Farben was fully aware of having acquired the two Austrian enterprises at only a fraction of their real value.

I particularly refer to Page 4 of the document -- that is Page 112 of the English book and Page 153-154 of the German book. It is the paragraph lettered "B", starting, "We shall establish the fact".

We are now turning to affidavits submitted in connection with this part of the case. Our Document 1104. This is Document NI 8583. It is an affidavit of Farben, by Farben lawyer Mayer-Megelin, of June 4, 1947. I would like to shortly quote from this affidavit. It is the first paragraph, Page 113 of the English book and Page 155 of the German book:

"In acquiring enterprises in Austria, the I.G. was motivated by two fundamental principles; first, it wanted to develop manufacture in Austria itself, so that it could supply the markets in the South-east, that is, in the Balkan countries, and then it wanted to set up plant-installations in the new country which would be a good visiting card for the I.G. vis a vis the government agencies. I quote the latter expression in this connection from Dr. Ilgner. In a certain sense instead of using the expression a "visiting card", one might also say that through the acquisition of these enterprises the I.G. showed its interest in the aims of the German government with respect to armament." And then from the third paragraph, same page, "The I.G. was considerably interested in acquiring both plants, the Deutsch-Waterei and the Austrian Dynamit-Nobel A.G. in order to have them under its immediate control. As regards its motives, they are explained by what I said above. The purchase price was arranged in a form which was exceptionally favorable to I.G." And then, the last three words from Page 113-Page 114, that is Page 156 of the German book.

"It is true that, as far as I know, these gentlemen" — and he is now referring to the gentlemen from the Sella company, Dynamit Nobel A.G. Bratislava — "never discussed the question of the acquisition of the enterprises by I.G., but rather took it as an absolute certainty that I. G. would acquire the stock."

We are now offering, as Prosecution Exhibit 1105, NI 11370, the affidavit by Kurt Krueger, from which we already quoted in our Exhibit 1067.

Before closing this book we would like to refer back to the von Schnitzler, that is Book 16, his affidavit, XI 5195. It is Page 75.

THE PRESIDENT: We do not have that book.

MR. NEWMAN: It is Page 75 of the English book, and Page 93--

THE PRESIDENT: Can you identify the document for the record by its exhibit number, then we can locate it later.

MR. NEWMAN: I would like to give the exhibit number in Book 51. We have already submitted it, that is Prosecution Exhibit 1056, Book 51, Page 96 of the German and 222 of the English book. This is what von Schnitzler said on the Austrian acquisition:

"The factories having existed beforehand in Austria and Czechoslovakia, in which I. G. Farben took an interest, were relatively small and did not request a substantial capital investment, compared with the huge enterprises which I.G. started as a new enterprise. But the old works of Donauchemie A.G. as well as another company into which the newly acquired corporations were merged, and had to transform their activities according to the rearmament plan and later on to the necessities of war. Many of their departments simply continued and raised their production in the same products, these products like sulphuric acid or chlorine and caustic soda being used as well for peace as for war purposes, and now being taken only for the latter purpose, but many of their departments were transformed from typical peace into typical war production."

May I call Your Honors' attention again to a document, Prosecution Exhibit 1096, that is XI No. 8586, Page 95 of the English book. I have just learned that the defense objects to the English translation in the second paragraph which I just read. I read, "the German and Czechoslovak governments pressed for the sanction of the contract." Now we have no objection to changing this word and having it replaced by the words, "used its efforts", if Your Honors will kindly mark this. It now reads, "and used its efforts for the sanction of the contract."

MR. ANCFAN: Book 54, if Your Honors please. The evidence under the sub-division of the count relating to Czechoslovakia will deal with the activities of Farben and these defendants in Czechoslovakia in connection with the so-called Prager Verein. That is the association of Prague chemical factories, the principal plants of which are Aussig and Falkenau, located in that part of Czechoslovakia which is known as the Sudetenland.

The facts relate to the manner in which these defendants acquired and took over the plants that were physically located in the Sudeten area, and their relationship with the home office of the company, which was located in Prague.

Now as a preliminary matter, it might be well to recall the findings of the IMT in connection with their discussion of Czechoslovakia. The IMT, after reciting the facts in connection with the government policy, states:

"These facts demonstrate that the occupation of Czechoslovakia had been planned in detail long before the Munich Conference, "and after referring to the facts of the Munich Conference, the judgment of the IMT states:

"That Higler never intended to adhere to the Munich agreement is shown by the fact that a little later he asked Keitel for information with regard to the military force which, in his opinion, would be required to break all Czech resistance in Bohemia and Moravia." And your Honors, of course, will take judicial notice that Bohemia and Moravia were territorial segments of Czechoslovakia.

Keitel gave his reply on 11 October 1938; on 21 October 1938, a directive was issued by Hitler, countersigned by Keitel, to the armed forces on the future tasks, which stated:

"Liquidation of the remainder of Czechoslovakia: It must be possible to smash at any time the remainder of Czechoslovakia if her policy should become hostile towards Germany."

On 14 March 1939, the Czech president Hach and his foreign

Minister Chvalkovski came to Berlin at the suggestion of Higlér and attended a meeting at which the Defendants von Ribbentrop, Goering and Keitel were present with others. A proposal was made to Hacha that if he would sign an agreement consenting to the incorporation of the Czech people into the German Reich at once, Bohemia and Moravia would be saved from destruction. He was informed that the German troops had already received orders to march and that any resistance would be broken with physical force. The Defendant Goering added the threat that he would destroy Prague completely from the air. Faced by these dreadful alternatives, Hacha and his foreign minister put their signature to the necessary agreement at 4:30 in the morning, and Hitler and Ribbentrop signed on behalf of Germany.

"On 15 March 1939, German troops occupied Bohemia and Moravia, and on 16 March a German decree was issued incorporating Bohemia and Moravia into the Reich as a protectorate, and this decree was signed by Ribbentrop and Frick."

"With that preliminary, we turn to the activities of these defendants in Czechoslovakia."

NI-3981 is already in evidence as Exhibit 1072.

THE PRESIDENT: What was the number, please?

MR. AMCHAN: NI-3981 is in evidence as Exhibit 1072.

THE PRESIDENT: Thank you

MR. AMCHAN: We had it this morning under Austria, and it's a confidential note of the Defendant Haefliger on his stay in Austria. In that connection I would like to call your attention to Page 2, which is Page 3 of the German, in the middle of the page. Saturday, 2 April. It's a report of a meeting with Keppler in Austria.

2 April 1933. "I took advantage of the opportunity -- pursuant to a cue from Mr. Keppler -- to sound him on the attitude of German authorities as to exerting influence on enterprises in Sudeten-Czechoslovakia. Keppler was of the opinion that such an exertion of influence was quite desirable, but should not cost too much."

A little further on, he says:

"I aimed, of course, at Aussig" -- that is the plant in the Sudetenland --

"being aware that Basch -- "that is the President of the Prager Verein -- "already had recently made confidential inquiries whether we would be interested in buying some Aussig shares by way of Dynamit Nobel Pressburg."

The reference to Basch, I think I indicated to your Honors, was the President of the Prague-Verein, and Mr. Sprecher informs me to make sure that you don't confuse him with Bosch, the I.G. man. The spelling is different. This is B-A-S-C-H. NI-6221 is already in evidence as Exhibit 833. This is the minutes of conferences on Czechoslovakia held on 17 May 1938 at Berlin. They are signed by Frank-Fahle and Dihlmann, and they discuss the situation in Czechoslovakia. The date, 17 May 1938, Page 6, if Your

Honors please. You will note -- this which is Page 6 of the German:

"General Situation:

"Seeborn gave an introductory report. He stated that after the incorporation of Austria in the Reich, tension had increased in the Sudeten-German parts of the country and that in all sectors of the population the political and industrial organizations were being reconstructed according to the German pattern and to the tenets of National Socialism."

Now, at Page 2033 of the transcript of the record, the witness Frank Fahle discussed some additional background in connection with this meeting. I note it, and ask Your Honors when reading this again, to make note of his testimony in that regard.

Now, I would also ask Your Honors to note, with respect to this document, that at Page 23 in this Document Book, which I shall come to in a moment, there is proof of the fact that the minutes of this conference held before the Berlin NW-7 Committee were submitted to the Commercial Committee at a later meeting in May, and I shall refer to that. The point is, I being in knowledge here of the discussion in the small committee to the entire Commercial Committee.

At Page 7, if Your Honors please, which is Page 8, they are discussing conditions of ownership of the Czech concerns in this meeting, and at the bottom, about six lines up:

"Our aim should be to prevent sellers of I.G. products abroad from having to be in any way dependent upon Jewish banks, since we would otherwise be branded with the stigma of cooperating with Jewish firms. Furthermore, such conditions of ownership could possibly deprive us of the liberty of directing our agencies at will, as our experience in Austria had shown, if such banks should come under the direction of

trustees appointed by the Government.

"Moreover, it was intolerable in the long run that shares in our agencies were owned by persons belonged to Czech Nationalist circles."

And at Page 8, if your Honors please, which is 9 of the German, at the bottom of the page:

"Trainees." May 1938.

"It seemed expedient to begin immediately and with the greatest possible speed, to employ Sudeten Germans for the purpose of training them with I.G. in order to build up reserves to be employed later in Czechoslovakia."

And at Page 10, which is Page 11 of the German, under "Industrialization":

"The I.G. was interested in getting to know, as far as possible, of all projects concerning the transfer of the chemical industry and the industrialization of chemical production."

And at Page 11, which is Page 12 of the German, there's a discussion specifically on the Aussiger-Verein, the plant at Aussig, and you will note, after describing who the company is and their physical and financial structure, they conclude that because of this there was a preponderance of Czech Nationalists and, in addition, probably a large number of Jews in commercial and technical executive positions.

"Proposed Action:

"Seebohm was in a position and was therefore requested to obtain details of the men who had to quite the Aussiger-Verein in the course of the last few years."

He would also obtain information as to where they were at present employed in Germany, and then they were going to look for those men to get them ready to come into Czechoslovakia,

and at the last paragraph:

"In addition, Dr. Kugler" -- the defendant Kugler "was requested to give relevant information based on his personal knowledge of the Aussiger Verein", and he is to present this to the committee.

It might be appropriate at this point to refer to, at least to identify for purposes of continuity of the story, documents previously in evidence. In connection with Book 51, under Count I-H, we did indicate the activities preceding the Munich pact, where Farben made representations to have their own representatives appointed commissars for these plants in the Sudeten area and that they received the assurances that their representatives would be appointed prior to 30 September 1938. In that connection I will just mention and refer to these documents, so as to maintain the continuity.

Exhibit 1042, which is NI-10408, being the report of Farben's VOWI, dated 28 July 1938, re: the Chemical Industry of Czechoslovakia, particularly Prager-Verein. These documents are in Book 51. Exhibit 1043, which is NI-10725, a letter from the Commercial Committee to the Vorstand, dated 21 September 1938, giving information on the location of these chemical plants in Czechoslovakia. Exhibit 1044, being NI-3721, is a letter of 23 September 1938, from Kuchne to ter Meer and Schnitzler, re: the anticipated acceptance of the Farben Nominees Wurster and Kugler as Commissars for the plants of Aussig and Falkenau.

Exhibit 1045, being NI-3722, is a letter of 29 September 1938, from von Schnitzler to ter Meer, Kuchne, Ilgner and Wurster, re: discussions with State Secretary Koppler concerning the Prager-Verein. The timing is significant, especially as we move into some more of the details on the

subsequent activities in their attempt to acquire and their acquisition of this chemical plant.

As Prosecution Exhibit 1107, I am informed by the Secretary —

THE PRESIDENT: 1073 would be our next number.

MR. AMCHAN: No, if Your Honors please, that would not be right.

THE PRESIDENT: No, that's right.

MR. AMCHAN: 1106. Exhibit 1106 will be NI-9161. That's a file note on a discussion in the Reich Ministry of Economics, dated October 6, 1938. This note, however, is not from Farben. It's by officials of the firm known as the Chemische Fabrik von Heyden. We will find out later that von Heyden's firm and Farben jointly got control of this. Now, it's the beginning of a story of competition between the von Heyden firm and I.G. Farben for the acquisition of these plants, and this is von Heyden's version of some of the facts in connection with this matter. At Page 13, if Your Honors please, which is Page 14, of the German book. This is a memorandum of a conference on 6 October 1938 at the Reich Ministry of Economics. The officials present are the Reich Minister of Economics and banker Zinsser, who represents one of the banks. We will meet him later. — the two gentlemen below, Jungel and Strubberg, represent the von Heyden firm, and we will see their relevancy in a moment. Now, von Heyden is complaining why there is a commitment to turn this plant over to I.G., and they are presenting their case why von Heyden think they are entitled to it. In the middle of the page. This is von Heyden's reference. Von Heyden, that's the firm. I don't want to confuse it with the defendant:

"He stated that as early as spring of the current year negotiations about Aussig, which had to be kept strictly secret

had taken place between the firm of von Heyden and the Inspectorate IV for the War Economy. They aimed at some gentleman of the firm of von Heyden who knew the Aussig enterprise well, taking, as soon as Austria and Falkenau have been militarily occupied, in the capacity of members of the Economic Staff of the Army Group Command, the continued operation of the factories of Aussig-Verein into their hands."

At the next page appears generally their complaint, in view of the fact that they had a commitment from the army back in the spring that von Heyden would be appointed to take over the plants at Aussig and Falkenau. They are pointing out here that of course they were bound to secrecy and couldn't disclose it and that they feel very hurt that at the last moment, on October 1, they suddenly find the commitment being made to I.G. Farben. Now, what is significant to us in connection with this recital is: certainly the Reich Ministry of Economics knew about the plans to take over Czechoslovakia, and certainly the Reich Ministry of Economics made a confidential deal making a commitment to von Heyden back in the spring of 1938 for them to go ahead when the military goes to take over the plant. We will have to weigh that fact against some other developments, and try to explain how, prior to Munich, in and takes it away from von Heyden. We will develop that point further, I.G. Farben walks but there is significance of preparations bringing industry into take over Czechoslovakia.

JUDGE MORRIS: It seems to me you are going a long way around in order to get to an inference that has very little bearing on this lawsuit. This is another instance of the burdening of this record that's gone on for two months with a lot of remote instances.

MR. AMCHAN: If Your Honor please, the burden, of course, will be on the Prosecution finally when all the evidence is in, to connect up the instances into one pattern that is, visible and which will sustain the burden of proof that we have. At this stage as we get the evidence we cannot readily, since it covers such a wide range, collate them at this time exactly into the avenue so as to indicate just where the burden lies.

JUDGE MORRIS: That's true, but we are at the end of one count, and at the beginning of that count, when I spoke up in this courtroom about this case becoming begged down by a lot of irrelevant evidence, we were promised that that would all be connected up after a while. We are at the end of one count now, with loose ends lying all over the place and the record cluttered up with irrelevant documents and testimony. Now we are entering the second count, and I have been hoping that we'd get a little bit more channeled so that the Court wouldn't have to wade through a mass of, at least, very remotely relevant testimony in evidence in order to find out what the Prosecution was trying to prove, and I think that in this particular instance here we have another case of wandering quite far afield.

MR. AMCHAN: Counsel's interpretation may be something with which the Tribunal may not agree, but I respectfully submit that it is entirely proper, and we have the burden, of course, that when we come to submit our memorandum brief, that is the time when we, of course, have to relate all the things. We are doing our best to keep them within channels and within what we conceive to be relevant evidence. The fact that at this particular moment the relevancy is not readily apparent, in our view we just respectfully suggest that you defer that for

the moment because there is other evidence which we cannot anticipate, which, we assure Your Honors, will at the appropriate time be connected up. Otherwise, I would have to run ahead of my story and take documents out of order.

THE PRESIDENT: Have you completed the presentation of that document?

MR. AMCHAN: I am through with that document.

THE PRESIDENT: We will rise for our afternoon recess.

THE MARSHAL: Military Tribunal 6 is again in session:

MR. SPEICHER: May it please Your Honors, as the chief of this Trial Team, who have worked for a very long time concerning this investigation, I feel a certain responsibility with respect to many of the things which have been selected to go into evidence in this case. From the beginning and I have had this task for nearly a year - I never conceived of it as a easy task or that this was an easy case, and I believe I had good precedence to which for instance, the Inter-Allied Declaration, which was presented before Your Honors this morning, which announced that the various acts which constituted crime, spoliation, had taken every sort of form from open looting which is simple to prove, and which we couldn't have to trouble a Court with the dignity of Your Honors concerning, but when we come to the most cunningly camouflaged financial penetrations we have difficult problems.

Now, certain decisions have been made by the Courts of some of the freed Countries which suffered under the Nazi tyranny. They will be laid before Your Honors in due course. We have perused all the documents which they considered relevant, and we have brought out from those what we consider best, and indeed it is our considered view, after a very great amount of concentration, particularly since some earlier remarks were made concerning the length of some of our documents, to read them out. We have no hesitation in saying that with respect to the materials now going in we feel we have eliminated all that we could honestly eliminate in view of our responsibility to see that there is laid before this Tribunal and the world the facts which went behind, for example, the Control Council Law No. 9. I would only like to quote Your Honors, in that connection the first paragraph of this Control Council Law No. 9 was dated 30 November 1945, and it provided for the seizure of I.G. Farben Industrie, and the control of it, and the first paragraph states: "In order to insure that Germany will never again threaten her neighbors or the peace of the world, and taking into consideration that I.G. Farben Industry knowingly and

prominently engaged in building up and maintaining the German war potential, the Control Council enacts as follows: " And then comes the other provisions.

Now, that administratively announced what certainly large portions of the world, the free world, believed to be the facts. We are now engaged in deciding and presenting - from the point of view of the Prosecution presenting to Your Honors, whether or not there was the requisite criminal intent, so that these individuals may be held guilty, and that is not an easy job, and it is not always for the Prosecutors to decide when one document should go in and when one should go out, and I only want to say, if it please, this Tribunal that we think that, taking the admissions alone which we have already presented in this record and putting them beside these facts, that we feel we have met a burden of proof and if there is any doubt about it, then we are only put in a position where we feel it obligatory upon ourselves to produce further evidence such as would sustain what has already been found administratively in Control Council Law No. 9.

THE PRESIDENT: Speaking for myself and not for the Tribunal, and limiting the matter to the situation that provoked the comment of my colleagues, if you take, for example, your document Ni 9161, which is in evidence as Exhibit 1106, which purports to establish that a real concern of Farben sought to do what Farben did with reference to acquiring these foreign industries and were apprehensive that Farben might acquire the plants, it seems to me that that is inviting a collateral issue with respect to which we could spend much time, and it bears very little relationship, if any at all, to the ultimate issues which this Tribunal has the responsibility of passing upon. I use that just as one illustration, but I think it is pertinent because it was at that stage of the trial that this matter came to the notice and the attention of the Tribunal.

I am also personally of the impression that a very large percentage of this evidence either falls into the category of being

purely cumulative or of a character that might be denominated as an effort to anticipate a defense and, if at all competent in the orderly procedure of a trial, should have been reserved for rebuttal. Do any other members of the Tribunal - Judge Hebert?

JUDGE HERBERT: Mr. President, without expressing any opinion that could be construed as the expression of an opinion relative to the probative value of the evidence that has been introduced so far, I do feel it my duty respectfully to dissent from the views which have been expressed by my two distinguished colleagues, for this reason:

I do not feel that we have yet arrived at a stage in the trial of this case when we can as member of this Tribunal fully appreciate the weight to be attached to these documents, and the relevancy of each document. Furthermore, I believe that it is incumbent upon us to receive this evidence with an open mind, having due regard to the difficulties that are inherent in the very nature of this case. Obviously, with reference to Count I, on which the major portion of the time has been consumed so far, we are dealing with the very elusive concept of the knowledge of these defendants, the knowledge which would be necessary to charge them with criminal responsibility under the precedents laid down by the IMT, and I can fully appreciate the difficulties which confront the Prosecution in selecting evidence going to prove that necessary criminal intent, and here we are meeting further instances of the same kind in connection with Count II, and no doubt we will encounter it on the future counts of the indictment. I, therefore, cannot find myself in agreement at this time, for lack of a sufficiently thorough knowledge of the full import of these documents, to be able to say at this time that I consider the documents which we have been receiving here today to be irrelevant or to be consider in any sense as an improper discharge of the Prosecution's responsibility in their presentation. I am rather inclined to the contrary, that the Prosecution might be charged with being remiss in its

duty if it over-looked any item of evidence which, in its view has relevancy to the charges with which we are here concerned. Whether they will be deemed sufficient ultimately is quite another matter, as to which I maintain an open mind.

JUDGE LERRELL: Simply for the purpose of the record, and having in mind my continued responsibility in the case, I want to voice agreement with the judgment just expressed and the comments just stated by Judge Hobert. I feel that we have a real responsibility to hear this evidence with an open mind. The evidence is being presented so fast that it is impossible for us to exercise proper judgment, judgment which would have to be a snap judgment, in determining as to whether it would be relevant. That can be taken care of in the ultimate consideration of the evidence, when it is all in. If, when the proof has been completed, it has no relevancy, it can and will be disregarded. We are not concerned of the evidence, and it seems to me we cannot concern ourselves too much with its relevancy, since there is no jury, but that this case will be passed upon by the members of the Tribunal, who are supposed to be, at least, trained in analyzing and considering evidence. I too appreciate the problem and responsibility of the Prosecution in exercising its judgment what shall be introduced and what shall not be introduced, and I am sympathetic with the tactics which would offer the evidence for the consideration of the Tribunal. If there is any question as to its relevance, I would err on the side of putting in too much rather than erring on the side of keeping something out which might in the final analysis have some bearing on the determination of the questions involved.

May I make this additional comment: I deplore somewhat the comments which have been occasioned here in this regard, and it would seem that such matters should be passed upon in an official way rather than different members of the Tribunal being called upon to express their personal reaction. I for myself will continue to try to keep an

open mind, receiving evidence and waiting until it is all in until the picture is complete, to determine not only the relevancy but what probative value of the different bits of evidence may have.

JUDGE MORRIS: The only further remark I would make is that primarily this Tribunal is charged with conducting a trial without undue delay-a speedy trial. It so happens, however, that the methods of operation which have developed in these war crimes trials make the Tribunal unable to carry out that mandate without the cooperation of counsel on both sides. To begin with, the obligation is primarily that of the Prosecution to not encumber the record with irrelevant material, for irrelevancy breeds and begets irrelevancy, and when something is introduced in the record by the Prosecution that should not be there, the Defense no doubt will feel that they in turn are required to meet it, and so the record drags out, and the trial drags out, because of the lengthy documents and the large number of documents, it is impossible for the Tribunal to rule as the evidence comes in.

It is absolutely at the mercy of the Prosecution in controlling the length of the trial, for the reason that it is not practical to rule on the individual documents, and once they go in they open the way to the Defense to pursue the same paths in order to meet what has already been placed in evidence, and so it seems to me that when the record of this trial is reviewed, if it does turn out to be too long, too complicated, too cumbersome in its procedure, the responsibility will primarily lie with the Prosecution, and it was in the hope that I could somewhat guide the Prosecution in indicating what I thought was irrelevant, was dragging out the trial, that I have from time to time made the comments that I have.

THE PRESIDENT: We are not making much progress so far as the introduction of evidence is concerned, and I am going to take the liberty as the presiding officer of the Tribunal to say just a couple of things, and then we will get along with the introduction of the evidence.

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The first is that I am happy to say in the presence of every one in this court room that I consider it a rare privilege and an honor to be the presiding officer of a Tribunal consisting of who have the courage and the conviction to say what they think.

This is not one Tribunal of one mind, it's a Tribunal on which there are four minds; and I welcome the opportunity that my associates have afforded me and that I accord to them, to say what they think with reference to this case. That's all I have to say officially.

And now, as one member and not as the presiding officer, I should make one dissent from a sentiment expressed by a couple of my associates, and that is, that I do not have any sympathy whatsoever for the prosecution in this case, or any sympathy for any defendant in this case. So far as human sympathy is concerned, I have none, and in the final resolution of what my judgment shall be in this case, speaking personally, so far as I'm humanly possible, it will be devoid of sympathy for any person connected with this trial, but will be based upon what I conceive to be my obligation to try this case only according to what I understand to be the law and the evidence to establish.

You may proceed.

MR. AMCHAN: I believe we offered, as Exhibit 1106, NI 9161.

Just by way of explanation of that exhibit, the von Heyden firm did become co-owners with Farben on the factories involved, and it was because of their participation in this spoliation activity that their version implicating Farben, we thought, and still think, is relevant.

We'll pass then, as Prosecution Exhibit 1107, to NI 4016, which again is a copy of a letter from von Heyden to the Reich Ministry of Economics, 10 October, again reciting some facts in connection with this transaction. At Page 39 appears the pertinent part, and it refers to the file memorandum which I discussed in connection with the previous document.

NI 9289 is already in evidence as Prosecution Exhibit 1069. These are excerpts of the minutes of the Commercial Committee - Frank-Fahle's affidavit. I'd like to call attention briefly to those portions of the excerpts dealing with the subject matter at hand. At Page 20, if Your Honors please, which is Page 25 of the German. A meeting, 22 April 1938, and Your Honors will note the participants: Schnitzler, Haefliger, Ilgner, Mann, and Oster. And they're discussing Czechoslovakia and the relationship to Aussig. At the next page you will note that the minutes of the meeting of 19 April 1938 are placed before the Commercial Committee, and at Page 23, which is Page 29-you will note at the preceding Page 22, the meeting of 24 May 1938. Again, note the participants, and presented to them at that meeting, which appears on the next page, is the Frank-Fahle report of 17 May, which was NI 6221, which we've introduced in evidence a moment ago, and he placed that entire minutes of those meetings before the KA, and the point, of course, is to indicate the people present who participated in the planning as to what to do with respect to the Aussig plant.

NI 4717 is already in evidence as Exhibit 563. This is the letter that I referred to yesterday. A letter from Ter Meer to State Secretary Brinkmann of the Reich Ministry of Economics, dated 11 October 1938. At Page 42, at the bottom of the page, which is 41, three lines up:

"Due to the great stress put on military considerations, it has been proposed to locate a Buna plant in Fuerstenberg, which location is unsatisfactory from several points of view. A better industrial site examined and proposed by us in Deschowitz (Upper Silesia) could not be considered until now because this area was considered as a troop concentration area against Czechoslovakia."

And then, the next paragraph:

"In pursuance of your communications - which were of extreme interest to me - about the future attitude of Germany toward Czechoslovakia which, based on economic considerations, must have important political and therefore also military consequences, I now take the liberty of bringing forward for consideration a further location for Buna III, namely in the northern part of the Sudetenland."

The date again - 11 October 1933.

THE PRESIDENT: 1936, you mean.

MR. ALCHAN: 1938, I'm sorry.

Now, we have alleged in the indictment that on 14 October the Defendant Krauch attended a meeting at which Goering discussed certain plans as to preparation for coming events in Czechoslovakia. That document is PS 1301. It's in evidence as Exhibit 401. It was previously presented in the transcript as Page 909, at Page 909 and the few pages immediately after, very briefly, 14 October 1938:

"Field Marshal Goering opened the session by declaring that he intended to give directives about the work for the next month. Everybody knows from the press what the world situation looks like, and therefore the Fuehrer has issued an order to him to carry out a gigantic program, compared to which previous achievements are insignificant."

And at Page 910 of the transcript there's a reference to Exhibit 468, being NI 4093, an affidavit by State Secretary Koerner, stating that, at this meeting, the Defendant Carl Krauch was present.

As Prosecution Exhibit 1108, we offer NI 10402. Again it's a note of the von Heyden people, reporting on their discussions with Farben as to the participation in the Aussig and Falkenau plants. At Page 44, if Your Honors please, it's Page 44 of the German, note the gentlemen present on behalf of I.G.: Schnitzler, Ter Meer, Kuehne,

Haefliger, and Ilgner, and the opening paragraph of the file memorandum:

"Von Schnitzler stated in an introduction that I.G. had already concerned itself for several months with the problem, of what was to happen when Sudeten-Germany and with it the factories Aussig and Falkenau and perhaps Bruschau would come to Germany. A committee had been set up at I.G. which had thoroughly investigated the question."

Then at the bottom of the paragraph:

"The men from I.G. had known clearly right from the beginning that they would primarily have to come to an agreement with the firm of von Heyden." he's quoting Schnitzler---

"because Heyden was, for neighborly reasons, also interested in Aussig." They Heyden gives its version of some things. Significant to us, in respect to that document, is the participator, one participating with Farben, referring to what happened at a conference and an admission of a Farben representative that way back they already had plans to take Aussig and Falkenau.

As Prosecution Exhibit 1109, we offer NI 10401.. It's a memorandum of the Defendant Haefliger, dated 15 October 1938, reporting on discussions which he had with von Heyden and also minutes of an internal discussion of Farben representatives concerning the purchase of the plant. Page 48, if Your Honors please, which is 48 of the German. The document is a transcript of the negotiations, and you will note the people present. The reference in the first paragraph to a preliminary conference "among ourselves, which toward the end was also attended by Dr. Buergin," the Defendant Buergin, and then discussion on details as to the acquisition of the plant.

As Prosecution Exhibit 1110, we offer NI 10407, a letter

from Farben to von Heyden, signed by Schnitzler and Ter Meer, dated 17 October 1938, setting forth the financial arrangements with regard to the takeover of these plants.

As Prosecution Exhibit 1111, we offer NI 10404, This is a letter - a circular, rather--which the Prager Verein issued on 18 October 1938, and it sent this to von Heyden. This document, and with it some of the succeeding documents, indicates what we consider to be the basic principle involved in connection with the spoliation charge. At Page 57, if Your Honors please. This is the note from the home office of Prager Verein, located at Prague, in a territory outside of the jurisdiction of the New Reich, outside of the jurisdiction of the Sudetenland. It's the domicile of the Prager Verein. And this note is addressed to von Heyden, as far as they know, prospective purchasers, and they tell them that the mere fact of the appointment of commissars for the plants in Aussig and Falkenau does not give those commissars legal authority to commit the association itself, whose domicile is outside of the area of the Sudetenland, and with this document you have squarely presented the question as to the authority of the commissars to take over those plants without consent or authority of the lawful owners, whose domicile is at Prague.

As Prosecution Exhibit 1112, we offer NI-9159. It is a letter from the Reich Minister of Economics, signed by Brinkmann and Brinkmann, if your Honors will recall, is the gentleman to whom ter Meer addressed his letter, NI-4717. This letter from Brinkmann is addressed to the Dresdner Bank, the director Zinsser. We have seen him sitting in on conferences. And in this letter is set forth the reasons for the appointment of commissars for the plants Aussig and Falkenau, Bruchna and Kugler--the Defendant Kugler--and indicating how Farben and von Heyden may acquire these plants.

Page 59, if your Honors please, which is 58 of the German. This is the Reich Ministry of Economics to the Dresdner Bank, on 26 October 1938. The first paragraph: He refers to the general management being located in Prague, that plants of Aussig and Falkenau are situated in the territory which has been ceded to Germany by Czechoslovakia on the basis of the Munich Four-Power Agreement. "The fact that the technical and especially the business management of the Aussig association was mostly staffed by Jews and Czechs caused me to appoint an acting management, whose task it is to manage both plants, until further notice, in trusteeship for the owners." And then you will note right down who they are, among them the Defendant Kugler.

At the next page, if Your Honors please, page 60 of the same letter. He is addressing this to Dresdner, and you will see the purpose in a moment. "Since it is not desirable, as a matter of principle, that different Reich-German firms conduct negotiations with banks in Prague, I should like to ask you, in accord with a suggestion by the petitioners, to contact the Zivnostenska Bank at once, in order to make certain that there will be no change in the ownership of the Aussig Association stock, at present in the possession of the bank, which would be detrimental to German interests."

Now, this letter, coming from the Reich Ministry of Economics in relation to the appointment of commissioners and bringing in I.G. Farben,

sets forth what the Reich Ministry of Economics considered to be the legal basis for the taking over of this property, and that appears in Paragraph 1.

As Prosecution Exhibit 1113, we offer NI-0581. This is the preliminary agreement concerning the sale of the plants at Aussig and Falkenau, 7 November 1938, between Prager Verein and the parties involved. At page 61, what we are calling attention to--it is page 60 of the German--the terms of the agreement, of course, Your Honors will see from the document, the persons present at the conference on behalf of I.G. Farben when the agreement was executed, Schmitz, Schnitzler, Kuehne, Ilgner and Haefliger. Of course you see this fellow Zinsser of the Dresdner Bank, to whom the letter that I previously referred to was addressed.

As Prosecution Exhibit 1114, we offer NI-10405. This is a letter from Farben's lawyer, Mayer-Wegelin, who handled the legal matters in connection with this, addressed to the Defendant Kugler, 11 November 1938. In this letter he gives instructions, in the guise of an opinion, to the effect that the legal position taken by Prager Verein at Prague to the effect that the commissars had no authority to bind the association was wrong, and he issues instructions which appear at page 66, which is page 65 of the German.

I just ask your Honors to particularly note the page; it is a so-called legal opinion, and you see what he considers to be the legal basis for Farben proceeding with the take over and utilization of the plant.

At page 68, still in connection with the same document, as part of that opinion, a suggested enclosure which this attorney makes to Kugler, telling him to inform all people doing business with Prager Verein as to what Farben considers to be the authority of the commissars at Falkenau.

Now, the documents as they come along here indicating the question of the Prague Office, the head office, of the domicile of this company, continually contesting the authority of the commissars to take over and appropriate the property. Farben has full knowledge of their position,

and notwithstanding, the activities that we are referring to here take place.

As Prosecution Exhibit 1115, we offer NI-8580. This is an interrogation made of Mayer-Wegelin, the attorney recently, in June 1947, pressing him a bit as to the legal basis for those opinions that he just rendered. I just want to call attention to a typographical error. At the end of the first question, about five lines up, it should read: "You felt that the Prager Verein should have not approved every action." And in this interrogation he concludes, at page 71, his last answer: "As for the Sudetenland, I cannot recall any law or decree." And he is speaking about a decree or law authorizing the commissars to be appointed and take over. "As far as I remember, there was in fact no special legal authority for the appointment of such commissioners. They were simply appointed--and there they were. I believe that either the Gauleitung or the Reich Ministry of Economics was responsible for their appointment."

We have already indicated the activity that Schnitzler and the Commercial Committee took with respect to the government authorities to secure their employment.

THE PRESIDENT: Do you think that affidavit adds anything to what is already in evidence?

MR. ANCHAY: I concede that is cumulative.

THE PRESIDENT: You may proceed.

MR. ANCHAY: As Prosecution Exhibit 1116, we offer NI-1139, which are excerpts from contracts between Prager Verein and Farben. It is dated 7 December 1938. What we call attention to, on page 74, is the first paragraph, "The sale and acquisition to take place regardless...." and so on. The recitals are interesting.

And at page 77, under Part 3, which is 88 of the German, you will notice the terms of the purchase price and manner of payment; and at Page 78, which is page 137 of the German, you will notice that information

with respect to this contract is sent to people listed there: Xuhno, Kaeffliger, Buergin, Wurster and Ambros. And on the next page, 79, the additional information with respect to that--and again the people present. On page 79.

As Prosecution Exhibit 1117, we offer NI-9158, a letter from von Heyden to the State Ministry of Economy and Labor setting out the reasons and the background why Farben and von Heyden got together to get this plant. Now, the next six documents we shall offer properly identified without discussion. They relate in the main to showing the activities of the Defendant Kugler when he took over as commissar of this plant, and these five documents will indicate that when he took over he immediately, following the political lines of the Nazi Government, dismissed indiscriminately employees of long years' standing because of their political, racial, or religious beliefs.

As Prosecution Exhibit 1118, we offer NI-11263. It is a letter from the Prager Verein signed by Fuxler, 20 October 1938, in connection with the dismissal of an employee on grounds we have indicated.

As Prosecution Exhibit 1119, we offer NI-11264. It is a memorandum from Aussig Falkenau of 17 January 1939, enclosing copies of memoranda concerning dismissal of employees on grounds stated.

As Prosecution Exhibit 1120, we offer NI-11375, a letter from Prager Verein to the Association for Chemical and Metallurgical Production, at Aussig, concerning again the same subject matter: Dismissal of Czech and Jewish employees.

MR. SPRECHER: Mr. President, would you please turn back to page 13 of the document book? There we have the first page of NI 9161. That is Exhibit 1106. Dr. von Rospatt has asked me to concede to an alteration of the translation, which I have done. In the 14th line, which begins with the word "taking"-- Have you found it? It should read as follows: "taking, if Aussig and Falkenau should be militarily occupied."

Mr. AMCHAN: As Prosecution Exhibit 1121, we offer NI 11624. It is an affidavit from one Franz Klecks, a former employee of Aussig, concerning the treatment of Czech employees, and the activities of the Defendant Kucler in regard thereto.

As Prosecution Exhibit 1122, we offer NI 11622, an affidavit of one Joseph Horynk, a former employee of Aussig, also relating to treatment of Czech and other employees by Kucler, or during Kucler's ascendancy.

NI 5194 is already in evidence as Exhibit 1083. It is an affidavit of von Schnitzler, of March 1947, and he gives a full discussion of Aussig and Falkenau. I might ask Your Honors to please note the pages as we move along. Page 100 of the document book, which is 162 of the German, beginning under item 3, the next page, 101, down to about the middle of 102, just before we start discussing Poland.

Then at Page 113, which is 175 of the German book, under Item 8, begins another statement on the acquisition of Aussig-Falkenau, and that extends to Page 116.

Then at 118, under Item 11, begins a further interrogation and statement of von Schnitzler on Aussig-Falkenau. That extends from Page 118 to 120, and then on Page 121, beginning under Item 13, he makes a further statement. Page 183 of the German.

Now two paragraphs from the bottom, I think are worth noting now:

"In July only the crisis about the Sudetenland which gleamed under the surface, became acute, and it became evident that Hitler planned for the annex of Sudetenland. Shortly afterwards the British government sent Lord Runciman to Czecho-Slovakia to study the conditions existing there and to prepare a compromise solution.

"Since then it was inevitable that the future of the two factories in Aussig and Falkenau being situated in an entirely German territory became a problem, and the standpoint inside the management of I. G. was, that if ever a change in the political status should happen, I. G. must take an interest in those two factories as the importance of the dyestuff-factory in Aussig being closely connected with the rest of the factory command, that not a third party could get control over it."

at Page 122, I ask Your Honors to also mark that as a statement of von Schitzler in connection with Aussig-Falkenau.

As Prosecution Exhibit 1123, we offer NI 9632. This is an affidavit of Jan Dvoracek, who was the vice-president of Prager Verein. This affidavit is a very revealing document by a person who was most directly a participant in these transactions. Because of the time, I shall not read from it, but ask Your honors to especially note this affidavit.

As Prosecution Exhibit 1124, we offer NI 11445. It is an affidavit of Mueller, a director of Rvotgers Works, on Farben and von Hayden's acquisition of the Aussig plant.

Now, the last two affidavits contain facts which have not been brought out orally, and there is a gap in the presentation because of my not discussing this orally, but in a general way, these two affidavits disclose the very special pressure exerted by the representatives of I. G. Farben to force the sale of these plants.

With that, we conclude the presentation of the documents on the spoliation of Czechoslovakia.

Mr. Sprecher would like to ask something.

MR. SPRECHER: Mr. President, had Your Honors decided that we should close now, without the full three hours in the afternoon?

THE PRESIDENT: I think so. What is your next step?

MR. SPRECHER: Continuation of the materials concerning Poland.

THE PRESIDENT: You are going to another book?

MR. SPRECHER: Yes.

THE PRESIDENT: Well; I think that under the circumstances, we will suspend at this time rather than start in on it. Perhaps you may have some announcements to make anyway.

MR. SPRECHER: The document books on Polish spoliation are 55 and 56.

THE PRESIDENT: Those are the ones that we will need tomorrow?

MR. SPRECHER: Yes, Your Honor.

We will try to follow those two books with the witness Sznulfogel, and thereafter the books on spoliation in the Soviet Union, 63 and 64. Books 63 and 64-and thereafter, the materials on spoliation in Norway, which is Book 65.

I think that will more than take us through the day.

THE PRESIDENT: I do not believe we have Book 65 in our offices.

JUDGE MORRIS: We do.

THE PRESIDENT: Very well, I am wrong.

Are there any other announcements?

MR. SPRECHER: Nothing further, Your Honor.

THE PRESIDENT: The Tribunal will recess until nine-thirty.

(Court in recess until 0930 hours October 23, 1947)

Official Transcript of the American Military Tribunal
in the matter of the United States of America against
Carl Krauch, et al, defendants, sitting at Nurnberg,
Germany, on 23 October 1947, 0945-1630, Justice Shako
presiding.

THE MARSHAL: Persons in the courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal VI.

Military Tribunal VI is now in session. God save the United States
of America and this honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshal, are the defendants present?

THE MARSHAL: May it please Your Honors, all the defendants are
present in the courtroom with the exception of the defendant Hoerlein,
who is absent due to illness.

THE PRESIDENT: The Tribunal is very happy to note the presence
of so many of counsel of the Defense this morning. We feel that insofar
as it is possible that we should have a good representation, and we
appreciate your presence here this morning.

Any announcements, Mr. Prosecutor?

MR. SPRECHER: Yes, Mr. President. After we are done with the
presentation of the material on spoliation in Poland, as announced before,
we will call the witness Maurycy Szpilfogel; that should be perhaps
after the recess this morning.

Tomorrow, we intend to call two witnesses in connection with ma-
terial introduced under Count 1: the witnesses Gorr (G-o-r-r) and
Gross (G-r-o-s-s). I understand that Nolte is principally concerned
with the witness Gross and arrangements have been made for Dr. Nolte
to see the witness Gross today.

May I request in advance that your Honors read the affidavit by
the affiant Szpilfogel during the morning recess--if you have not
already read it--so that we can perhaps have some time when the witness
takes the witness stand?

THE PRESIDENT: Can you give us references as to where it can be

readily found?

MR. SPRECHER: Yes, Your Honors; it should be the last document in Book 56.

THE PRESIDENT: Thank you.

MR. SPRECHER: That affidavit was submitted separately, however, and you may have to check with your secretaries.

THE PRESIDENT: Very well. Anything else; any announcement or observations that the Defense desires to make before we start the trial?

DR. HENZE (Counsel for Defendant Kugler): —

THE PRESIDENT: Just a moment, counsel, we are not getting what you are saying; will you try again? No—we had better wait a moment.

DR. HENZE: In the document book 54 which was discussed yesterday, there is the Document NI-11376. This is a memorandum on the letterhead of the Verein fuer Metallurgische Chemie which can be found in the German document book as "signature illegible", and in the photostatic copy one cannot recognize the signature either.

THE PRESIDENT: Just a moment, the translation is not coming through. Will you please repeat what you said after identifying the document as NI-11376?

DR. HENZE: This document is a memorandum of the Personnel Department of the Verein for Chemical and Metallurgical Production, and was signed on the 16th of September 1947. The signature in the German document book is termed illegible. I have looked into the copy that is the photostatic copy in the Secretary General's Office and I have found that there too the signature cannot be recognized clearly. I have the same misgivings about this document which were voiced by my colleague, Dr. Hoffmann, against a letter of the Austrian Credit Corporation and which misgivings he voiced to a member of the Prosecution.

THE PRESIDENT: Counsel, was that the document, do you remember, that was passed up to us? Or is that another document?

MR. SPRECHER: Mr. President, it is another document.

THE PRESIDENT: Thank you.

DR. HENZE: I therefore find it necessary to object against the submission of this document.

THE PRESIDENT: Will you now give us, so that the record may be complete, the exhibit number that was assigned to this document?

DR. HENZE: This document is NI-11376, which is Exhibit 1120.

THE PRESIDENT: Thank you. We would like to hear what the Prosecution has to say with reference to this observation.

MR. SPRECHER: Mr. President, we have sent for the original document and we are sending, as well, for our document book, which we do not have with us. Could we defer that until after the morning recess?

THE PRESIDENT: Yes, the Tribunal will give further consideration to this matter as soon as we come to the bench from our morning recess, if you will call it to our attention.

MR. SPRECHER: The documents concerning the spoliation case with respect to Poland are found in Document Books 55 and 56. The Indictment charges the spoliation in paragraphs 97 through 100, four rather short paragraphs which, I believe, rather bluntly state what we shall also be able to prove rather quickly.

I will only ask Your Honors to take judicial notice of the I.M.T. decision concerning "The Aggression Against Poland" at pages 198 and following, up to page 204 in Volume 1, Official Documents of the IMT.

I have only one special note I would like to make at this time concerning the IMT finding. On page 199 it is indicated that Hitler had decided upon the execution of Fall Weiss (Case White) at least by the 3rd of April 1939 because the OKW issued a directive so stating; and I ask your Honors to recall that this was less than one month after the final invasion of all of Czechoslovakia. I think with that timetable in mind the presentation which follows will be more understandable.

The first eight documents we are going to offer in connection with spoliation committed in Poland are decrees of the Nazi Government concerning sequestration and confiscation of Polish property, both public and

private. Now, we have had those decrees translated fairly fully and placed in your document books. However, they are matters of which Your Honors could take judicial notice by going to the law books, if it were not for the fact that they are to be found, of course, in the German language; and we do not mean to indicate to Your Honors that it would be any more necessary for you to read all of these documents than it would be if they were in formal law books back in the United States, and you were merely taking judicial notice of them.

THE PRESIDENT: Are those the documents that are listed in the third page of your index, in Book 55?

MR. SPRECHER: Yes, Mr. President.

THE PRESIDENT: I am just wondering if we could not save considerable time here, Mr. Prosecutor, if you would make one statement--and take your time in doing it--as to the significance of those eight documents, and then merely have them marked with exhibit numbers and considered in evidence, subject, of course, to whatever objection counsel for the Defense wishes to make. Since they all do relate to matters of which you say we might take judicial knowledge and are what might sometimes be called background, counsel, in an informal way, tell us in your own words the significance of those documents and then just mechanically have them marked as exhibits and offered in evidence. Then permit counsel for the Defense to make whatever objection they see fit. That would conserve time.

MR. SPRECHER: Your Honor, I will try to come as close to that as I can.

THE PRESIDENT: Try that, and we will see if we cannot save some time. We understand, of course, that you are talking extemporaneously, without notice, and we will bear with you if you find yourself wandering a bit; but the Chair would like to see how that works out once.

MR. SPRECHER: There is a distinction in these decrees between public property of the Polish state and private property of the Polish

nationals. It is important to bear this fact in mind, we feel.

There is also a distinction between those portions of Poland which the Nazis took it upon themselves to declare immediately were annexed into Germany proper, and among those territories as the so-called Warthogau, where some of the plants with which we are concerned were located.

The Defendant Frank in the First Case, was the Governor General of Poland. He was called the Governor General of the General Government. This was the area which was not incorporated or annexed allegedly de jure into Poland itself. Since the Germans themselves made some distinctions between those two areas, and since some of the correspondence involving Farben makes reference to that distinction, we thought it important to call this matter to Your Honors' attention.

Mr. Sprecher: The documents are important in connection with the date on which they are executed. However, for the time being, I think I can skip over mentioning those details to you.

The result of the various decrees is frankly and plainly to confiscate and appropriate all of the property of the Polish State and of the Polish Nationals, with the exception of such Polish Nationals as became satisfactorily Aryans by some petition or some means of getting themselves declared proper Germans.

One other exception, such movable property as a man could take with him was in some cases excluded from the confiscation. Personal assets, provided they did not allow the man more than a bare living were exempted from the order.

There is nothing secret about these orders. They are all to be found either in the Reichsgesetzblatt, which is the official legal codification of laws in Germany or they are to be found in a similar book for Poland.

THE PRESIDENT: Is it your theory that these orders and decrees, establishing the policies which you have just stated, are disclosed in and through these first 8 exhibits?

MR. SPEECHER: Yes.

THE PRESIDENT: Go ahead.

MR. SPEECHER:

Now it is important to note that many times Reich officials as well as Farben officials, were acting in advance of some of the alleged new legal conditions were made by these laws, but even so, we thought it important to show the timing of the actual law which gave a legal for the destruction not only of the state of Poland, but for the complete upsetting of its entire economy pursuant to the Germanism and the Grosswirtschaftsraum theory, which was, of course the economic extension of the political, economic and racial theory of Lebensraum so early proclaimed by the Nazis.

THE PRESIDENT: Just another question, if you will pardon me. Certainly we have imposed without any notice to you somewhat of a burden upon you counsel, is it your theory that these exhibits that are listed on the first page of your index, disclose in more or less chronological order as to time, the development and the announcements of these decrees and directives of which you are speaking?

MR. SPEICHER: Not completely, in that some of the announcements from Goering are out of chronological order, because we wanted to give the main decrees first, and then some of the announcements which state the functions, for instance, of the Haupttreuhandstelle-Ost; the main offices, the main trustees are given.

Now in occupied Poland, the main trustees Office East, was charged by Goering, as you will see from several of these decrees, with the principal governmental responsibility for seeing what happened to this property that was taken from the Poles, and supervising whatever administration was to take place there, either by other state functionaries, by German private industry which was allowed to come in there, or by other means.

I think with that, I can mark the documents in evidence.

THE PRESIDENT: Very well.

MR. SPEICHER: The first document is NI-4602, and that may go in as Prosecution's Exhibit 1125. Do you want me to announce the title of it, Mr. President?

THE PRESIDENT: No, that will not be necessary, if you will just give us document number and the exhibit number, that is all that will be necessary.

MR. SPEICHER: The next document is NI-4603, which may go in as Prosecution Exhibit 1126.

The next document is NI 4600, which may go in as Prosecution's Exhibit 1127.

The next document is NI 4601, which may go in as 1128.

The announcement by Goering, concerning the establishment of the ~~main trustee office-East~~, NI-1307, may go in as 1129.

The announcement by Goering concerning the purpose and functions of the main trustee office, east, is NI-1308, and may go in as 1130.

The next document I think I had better handle the other because they are not entirely decrees, but rather explanations of the authority of the Main Trustee Office-East.

Is that agreeable?

THE PRESIDENT: Certainly. We are just trying something here, to see how it works out. Now then, as we understand it, the prosecution is now offering in evidence, Exhibits 1125 to 1130, inclusive; is there any objections on the part of the defense to those documents being received in evidence?

Then they will be received in evidence.

Now let me say, in fairness to the prosecution and the defense, that we are not committing you irrevocably to the statement I just made, that they are in evidence. If the prosecution determines later that there some particular significance, and you want to revert back to one of these documents, certainly you may do so, and if any of the counsel for the defense discovers any valid reason why there should be an objection to the admissibility of those documents, we would be glad to hear you. We will just save some time here. Just in the course of 5 or 6 minutes we have gotten six documents into evidence.

Now, Mr. Prosecutor, you may pursue the matter in your own way from now on.

MR. SPRECHER: Thank you, Mr. President.

The next document is found at page 27 of the English document book, and page 39 of the German document book. It is NI 3742, and we offer it as Prosecution's Exhibit 1131. This document is excerpts from the Frankfurter Zeitung, the frankfurter newspaper which was the principal newspaper in Frankfurt, which was the seat of I.G. Farben, the main headquarters of I.G. Farben.

It is dated the 22nd of February, 1941, and it discussed in this public newspaper, the main Trustee Office-East.

You will note, if your Honors please, in the first paragraph, that the object of the HTO, Main Trustee Office-East, was to coordinate the industrial economy of the eastern territories annexed to the Reich into the economy of the Reich itself, and to utilize it as soon as possible for these present tasks.

Of course, that sentence by itself, indicates spoliation on the broadest scale. It fairly declares what is permissible, in international law with respect to the treatment of the property of a belligerent during a belligerent occupation.

Now may I ask you to go to the last lines of the first paragraph: "There is no doubt, therefore, that the annexation of these Eastern territories during the war, has put before the Germany economy, a task which for its timing, as well as in regard to the cultural, economical and social conditions, once entered, must be considered as happening but once".

We submit that this was open declaration that Germany intended to make the most of it, and indeed, we submit that these defendants attempted to make the most of it.

DR. HOFMANN: (for the defendant vander Heyde):

Mr. President, this exhibit is an article from a newspaper. May I point out perhaps that there are certain differences in this article, and when I present my case, I also want to submit newspaper articles, as was already done by the prosecution, in which official decrees, government or other agencies, are printed, or perhaps explanations, which were signed and made certain persons, and which represent their opinion.

This newspaper however which is submitted here, is not signed by anybody, and is merely the opinion of some person about laws and decrees without an opportunity being given to see whether he has the

necessary expert opinion and knowledge to make such statements.

He is talking about the relationship of the Reichsfuehrer-SS, about the Main Trusteeship Office, East, without our being able to find out whether this man has the necessary knowledge to make such statements.

Therefore, I am of the opinion that such an article which is not signed by an author, which does not represent his own opinion, but only an interpretation of the laws which are in existence, as interpretation which is not necessarily to be concluded from the law, - that such an article is inadmissible.

MR. SPRECHER: Mr. President, I personally welcome the bringing up of this point before your Honors, because I feel that there has been a certain basis misrepresentation concerning the admissibility of newspaper in several of the Tribunals, and the distinction is very clear.

The prosecution shall have no objection to the introduction of newspaper articles given or published during the Nazi regime, provided they are relevant, because that was done before the IMT, for a very simple reason.

The press was controlled in Germany and it was very closely controlled, and anything that went into press at least had some close bearing upon government policy or it would not have gotten into this press. The question of newspaper articles written in the German press, after the collapse which in our opinion is the dividing point, where of course we enter into a different field, - and it seems to me that is the principal issue which has come up in some of the other cases, and this court, for example, has been cited in the press as to the admissibility of newspaper articles in general which I think was a little off-the-beam.

I might say that the article itself refers to an article by Max Winkler. This is right in the first paragraph, who was the head of

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the RTO, and which article was found in the Vieryahresplan, the four-year plan magazine of Goering's four-year plan, and this article purports to be a summary of that longer article.

THE PRESIDENT: The offering of evidence of doubtful competency is, of course, a two-edged sword. The one who offers it may subsequently find himself embarrassed by being confronted with his opponent's suggestion of his rights in view of the precedent that has been established.

The President feels that perhaps we have wasted altogether too much time in discussing and in ruling upon the matter of the competency of evidence. After all the American-English traditions, as to making timely objections to the competency of evidence, was primarily a matter of keeping from the jury of laymen evidence that was prejudicial or had no probative value.

There is no jury in this case, and whether the Tribunal rules on the competency of evidence when it is offered, or merely notes the objection, and gives consideration to its competency when it comes to considering the evidence, really gets us to the same point.

It is certainly proper for counsel to object to the evidence in order to put notice into the record for the Tribunal, that he thinks the evidence does not have probative value, but whether the evidence is admitted or not admitted, after such an objection, is not of very serious consequence, because the same Tribunal that would rule on its admission or exclusion, would ultimately have to rule in its own mind as to whether or not the evidence had probative value, which will get you back to the same place.

Now to that there is one well-defined and clear exception. The Tribunal does have a responsibility to see that its record is not burdened, and its time is not consumed with evidence which it clearly conceives is not admissible.

I think that the answer to this situation here may be summarized this way. The evidence has been offered, the Tribunal has notice, by the objection, of counsel, that he thinks it is incompetent. We will not take the time now to determine whether it is

or isn't incompetent, or whether it has probative value but we will consider that when we come to considering the weight, if any, which the Tribunal will give to this bit of evidence. There is just the other angle of the question, and that is whether by offering this evidence, the prosecution is opening the door to the defense to offer evidence of similar or different character, is one that may affect the orderly procedure of the Tribunal, and one which we may have to pass upon before the case is closed.

For the time being, we will admit the exhibit in evidence, if the prosecution so asks, and we will give it such weight as we think it is entitled to when we come to the consideration of the case.

By that we make no commitment that we will admit newspaper articles generally, and certainly we will protect the orderly procedure of this court to the extent of seeing that our record is not burdened, and our time is not consumed, with respect to evidence that we think has no probative value.

MR. SPECHER: Mr. President, Honorable members of the Tribunal, if you will turn over then to page 28 of the English, and page 40 of the German, I might say that most of these things I am about to point up, will be brought out in connection with other documents. This is merely a convenient way of showing how broad knowledge was in Germany concerning these things.

At the break in the page, would you note the following, that the industrial enterprises which were confiscated and not closed down, were being operated by commissars who were under the supervision of the local trustee offices of the RTG, and that all of this was being done, "in closest collaboration with the Reichsfuehrer SS" that is Himmler, "in his capacity as Reich commissar, for the solidification of Germanism and taking care of the interests of the Germans who are now coming back."

Part of Poland was in effect being colonized by Germans, and as a matter of fact, we will find later on in this proof, that

there was a certain conflict between taking care of the alleged claims of war veterans who might want them as Polish property, and I. G. Faron.

and you will note at the bottom of the page that there was a certain preference to be given to the certain "Volksdoutscho", who might go to Poland to live.

The next document, NI 10727, may go in as Prosecution's Exhibit 1132. This is an affidavit of Max Winkler, who was the head of RTO. I would only like to ask your Honors to read the paragraph beginning, "One of the first laws issued with regard to Polish property provided that a settlement was to be made as to whether and to what extent the former Polish owners should be indemnified."

Winkler goes on to say that although there was a certain amount of talk about the possible indemnification of the Poles who suffered by this conquest, and expropriation, it never came to anything. Of course, we submit that it would be out of the question to consider that it was very important, even if these people had been paid something.

The main spoliation is the fact that people were dispossessed, and that their country and its economy was thrown completely out of line, and run by someone else and not by them.

We now come to Documents bringing these defendants into the terror that was the occupation of Poland.

The next document is NI 5947, and we offer it in evidence as Prosecution's Exhibit 1133. These are—

THE PRESIDENT: Pardon me, counsel. Just so that we have clearly in mind the scope of the next group of documents that you are offering, can you tell us where the next break in your index comes? By that, I mean to say, the remaining documents in this book treat exclusively with respect to the participation of defendants, or is this a part of it that is devoted to that subject,

and then a part to some other?

MR. SPRECHER: No, this entire document book from now on will be related to showing the role of these defendants, and of I. G. Farben, with respect to plain plunder, and with respect to a more sophisticated type of spoliation in Poland.

THE PRESIDENT: We find that it is very helpful to us if we have in advance, a commitment from the prosecution as to what the succeeding documents will relate to and that was my purpose in asking you that question.

MR. SPRECHER: Prosecution's Exhibit 1133 is excerpts from the minutes of the Commercial Committee of I. G. Farben on the 20th of October, 1939. We shall show later that this is not the first time that the Commercial Committee or its members were concerning themselves with that matter, but we think it convenient to point out that there was a discussion at which the defendants Schmitz, Schmitzler, Haefliger, Illner, Mann, Oster and Buete-fisch were present during which, "Industrial problems in the occupied Eastern Territory" were discussed.

Farben had its man Deissmann present on the scene, and he was quite busy keeping things coordinated as is indicated under Item B, and the Commercial Committee was so informed.

Deissmann was to tell the already appointed Farben trustees, for the Beruta plant in Poland, that Farben was willing to establish a buffer company for the purpose of operating Beruta trusteeship.

Now we noted in the opening statement a certain part of this document which comes under (c) and may I, therefore, refer your Honors to it especially. It is on page 48 of the German, page 33 of the English, Item (c):

"Furthermore, on his way back to Warsaw, Dr. Deissmann will call on the local chief of the civil administration, in order to clarify the appointment of a trustee for the largest chemical industrial plant located there. It is not yet known which plant is involved."

Underneath the next numeral II, "Reichswerke Hermann Goering" your honors will note that Farben was indicating in the Commercial Committee that it was taking a positive attitude as to collaboration with the Hermann Goering works:

"Dr. Buetefisch will see Herrn Fleiger", --
Fleiger was the Chairman of the Vorstand of Hermann Goering Works; the witness Koerner who was already here in this courtroom, was the Chairman of the Aufsichtsrat, as he so stated. "Buetefisch will see Fleiger within the next few days about hydrogenation and nitrogen problems and will avail himself of the opportunity to express Farben's preparedness, on principle, to cooperate".

Now we come to the next document, NI 1149, which may go in as Prosecution's Exhibit 1134. This is a document which we suggest deserves your careful reading in detail. It is a very interesting document, and please note the time, the 23rd of November, 1939.

It is a little letter from the defendant, Wurster, to the defendant, Buerger, and you will note that Wurster states in the introduction that he attaches herewith his "notes" which, "were dictated rather hurriedly".

It would seem to us that it is an indication of a rather spontaneous expression by the defendant Wurster, and it may have some special value because of that fact alone.

The defendant Wurster incloses a draft report which he had made concerning a visit he had made to some industrial plants in Poland between the time of 26 October and 1 November 1939. This five-days trip was shortly following upon the complete conquering of the invaded nation of Poland. Will your Honors note that the journey was made, and this is indicated on page 34 of the bottom of the English and page 55 of the German -- will you note that the journey was paid by Dr. Pohland. Dr. Wurster and a representative from I. G. Farben from the Hoechst plant who spoke the Polish language -- it's interesting to question once Dr. Pohland. Your Honors will refer to Prosecution Exhibit 426 which is NI-4703. You don't have it before you now. You will find that there's an official card of the Krauch office and you will find that Pohland was in charge of a section in the Krauch office directly reporting to the defendant Krauch.

I only point that out in order to say that this is the only typical combination operations between the defendant Krauch's office and I. G. Farben. The plants visited are noted to begin with and then you will find a very lucid explanation of the conditions prevailing in each of these plants followed in each case by a so-called "final opinion" and these final opinions are the things which we principally want to bring to the attention of your Honors because they constitute the most outright and unmitigated proposals of plain planned plunder in addition to some more recommendations with respect to more complicated types of spoliation but in this case -- some cases -- the complexity of the normal types of spoliation which we have has been greatly reduced by the defendant Wurster in this report, you might note on page 36 of the English, page 58 of the German, that naturally Wurster states it is presupposed that anyone concerning himself with Poland had read the Vowi report. That's the economic research report of NW-7. And, the dates of the reports are interesting, 28 July 1939. We will come to excerpts from those reports a little later on.

In this connection the first plant mentioned on page 38 of the English and page 62 of the German you will note that in the final opinion Wurster declares that the plant is to be considered as a valuable asset. Its situation in the economic field of Greater Germany with regard to the Lodz processing textile industry would be a favorable one. In other words, Wurster is within the Warthegau which is within the incorporated part of Poland and this plan could serve Germany in this connection. Then he concludes:

"In case of removal the greater part of the apparatus installed could immediately be put into operation elsewhere."

I think this full document shows the utter lack of any consideration for what was happening to the Poles, who had been vanquished and overrun.

At the top of page 40 of the English and that is on page 64 of the German, reference is made to another plant, the Boruta plant, with which we will come in contact with and I would like, with your permission, quote a little bit:

"It is interesting from the point of view of war economy to note that the factory has a technically perfect installation for the manufacture of picric-acid and also a di-nitro-naphthalene plant."

If you will just skip down to the final opinion on that same page of the English but on page 65 of the German, you will find Wurster saying the following

"It would be expedient to dismantle the installations for picric-acid, dinitronaphthalene. In our opinion the other productive units can continue their work best by remaining where they are."

The next bit following requires some special mention here partly because of our opening statement where we attach certain significance to some words which have been badly translated here. May I start with the next paragraph beginning:

"Dr. Schoener also had the opportunity to inspect the dye factory Wola".

"This is a very small primitive plant owned by some Jews and producing a small amount of Azo-dye. The only thing that might be worth confiscating is a Frederking-steam system for the production of certain types of acid."

And then you will note in parenthesis that Wurster had made a little comment: and here I want to make a change in the translation and explain why. "The name of the three "gentlemen" were Spielvogel, Goldfisch and Augenblick." Now, the translator seeing the word "Herren" in the German in quotation marks was confronted with a strange situation because the word "Herren" plainly means just "gentlemen" in German and the translator apparently gave it some special connotation and read back in the paragraph and therefore put the word as "partners" because obviously the reference was to these gentlemen who were engaged in business together, at least, according to Wurster, but the prosecution wishes to point out that defendant Wurster judged the Jews and knowing what the Nazis were doing to Jews all over -- they had already taken care of them in Germany before that time, indicating in the report that these three "gentlemen" were involved. If you will turn over the page you will note at the top of page 41 of the English and the bottom of page 65 of the German the following:

"Herr Director Dr. Buergin will report about this plant. He has inspected it as part of his travelling program."

That means that some other defendants then, the defendant Wurster, travelled about in Poland for some purpose. If you go to the end of the next paragraph which is before 3 -- we are now underneath one of these final opinions of Wurster's; he says:

"It will be expedient to enlarge this installation at some time so as not to make it accessible to third parties from a technical point of view."

This is the attitude we feel we have shown to your Honors many times. Sometimes out of the mouth of other people to these defendants. Here we have it out of the mouth of one of these defendants and it's

clear if anyone is going to engage in aggrandizement it should be I. G. Farben.

Now, if you will turn over to page 42 of the English and page 67 of the German, you will find a final opinion with respect to the Fabianicer plant. That plant was partly owned by the Swiss and, of course, you will find Wurster makes a little different remark:

"In view of the Swiss ownership interference of any kind is not advisable or at least should be co-ordinated carefully beforehand with all the Government offices concerned."

Co-ordination with all of the Government offices concerned was not a difficult matter for Fabben as we shall shortly see in connection with what they accomplished in this overrun country.

The next final opinion by Wurster is at the bottom of that page 42 in the English and at the top of page 69 in the German concerning a nitric plant:

"The plant is not well situated with regard to transport facilities. It is recommended that dismantling should be speeded up and that the apparatus should be utilized in Germany as far as possible; the stocks are, of course, likewise to be taken away immediately."

And then if you will go over to page 44 of the English and page 71 of the German, at the top of the page:

and this is with respect to a rayon factory:

"For the duration of the war at least the most economical use of the plant will be achieved if the plant can be operated to capacity again as soon as possible. This would be technically possible at once, if the units of the apparatus could be installed without difficulty in plants on the territory of Greater Germany."

You will note that "Greater Germany". You might recall, your Honors, that as early as 1936 in connection with the taking over of plants in Austria Farben used this work "Wirtschaftsraum" in one of these letters to the authorities.

Page 45 of the English, page 73 of the German, underneath the next final opinion the last few words:

"We recommend the immediate dismantling of the entire apparatus including the distillery."

The next final opinion on that same page -- that's page 74 of the German is rather short:

"From the practical point of view the minor equipment of the firm were of no particular interest to us. Maintenance of work might be in the interest of the population."

If you will go to page 46 which is page 75 of the German, underneath the final opinion concerning a plant that made certain types of colored paper, after it had been noted that it was Aryan family property the final opinion states that:

"We took with us samples of the manufactured film paper and films which will be examined in Germany so that an expert opinion can be obtained. The result will decide whether we are definitely interested in the manufacture in Warsaw during the war, if by this means German capacity can be augmented."

I think it is somewhat redundant at this point to go to the other final opinions and I will pass that document.

The next three documents are short excerpts from a Vewi report on 28 July 1939.

DR. HEINZELER: Your Honor, according to the statements by the President made a short while ago I do not wish to make an objection against the document presented now but I would like to confine myself merely to retain the point of view which I have why this document does not seem relevant to me in the sense of the indictment. From the notes of Dr. Wurster, first of all, it can be seen that they were dictated hastily and that it is only a draft. The original document bears expressly the designation "draft". From the accompanying letter to Dr. Buergin it can be seen that Dr. Wurster sent these drafts to a colleague in the Vorstand. Nothing is said about the fact that this draft went to an official agency or that perhaps by reason of this draft any measures were taken by Farben or by any other German authority. That is the first thing I want to say, why the document seems to be irrelevant to me. The second point: from the first page of the note it can be seen that Dr. Wurster didn't undertake this trip as a functionary of Farben but as an adviser -- a technical adviser -- of Dr. Fohland who was the official of a Reich agency. That this trip had nothing to do with the subject under indictment, that is the acquisition of these three factories Beruta, Wela and Winnical, can be seen by the fact that Wela and Winnica were not inspected on this trip by Dr. Wurster. Therefore, I consider this document irrelevant but according to the desire of the President, I do not make a formal objection here but please take this into account when your Honors take this matter under consideration.

THE PRESIDENT: The Tribunal is glad to have in the record the observations of counsel for the defendant with respect to his question as to whether or not this document has any relevant value and that matter will be taken into account when the Tribunal comes to consider the probative value of the document.

MR. SPEECHER: Following the suggestion of the President earlier this morning I think I can mark the next three documents in evidence as

a group. They are merely excerpts from this report of Wurster's entitled "The Most Important Chemical Firms in Poland," dated 28 July 1939. The first concerns Beruta which is the largest chemical plant in Poland and the next concerns Winnica and the last concerns Wela. May I mark these in, as follows: NI-9151 as 1135, NI-9154 as 1136 and NI-9155 as 1137?

THE PRESIDENT: Yes, and if there's no objection the three documents will be separately considered in evidence. Counsel may continue.

MR. SPEECHER: Now, in presenting the materials concerning Farben's further activities with respect to spoliation in Poland. All of the documents we shall now present, except the last. Two and three will concern themselves with these three plants Beruta, Winnica and Wela. I shall continue with some documents which will have some general reference to all three of the plants and then conclude the Beruta case. After that Dr. Newman will continue concerning Winnica and Wela. It's impossible to prevent a certain overlapping in the presentation.

THE PRESIDENT: Very well.

MR. SPEECHER: The next document is NI-8457 which may be marked in as Prosecution Exhibit 1138. This is a telegram of the defendant von Schnitzler to Krueger, who is the new Deputy Chief of Ilgner's organization NW-7 in Berlin. It's dated 7 September 1939. That's six or seven days after the German troops had invaded Poland and you will note that Schnitzler mentions the four principle chemical factories, dyestuff factories, and note that they produce over 50% of the Polish dyestuff needs and that the 100% Polish factories have supplied about 30%. That refers to, I suppose, the Polish owned factories and not factories where there is some outside participation. Schnitzler goes on with respect to the situation -- I would like to make a quotation from the bottom of the English and from the top of page 86 of the German:

"Although we do not wish to take any definite attitude at the moment to the question of the further operation of the plants, we consider it of primary importance that the above-mentioned stocks be used by experts in the interest of the German national economy. Only the I.G. is in a position to make experts available. Have taken steps for Director Schwab, the manager of our local East European dyestuff business to be made available for this task. Further assistants, technical experts, as well, are naturally at your disposal. They will be in Berlin at the middle of next week for further discussions with the competent authorities and we beg you to fix a time for these discussions."

This is the customary use of NW-7 or one of its branches for landing officials to make appropriate contact with the Nazi authorities in order to achieve some Farben aim. With that we may pass that document.

The next document is NI-2749. It may go in as Prosecution Exhibit 1139. This is a letter from I.G. Farben, signed by the defendants Schnitzler and Krueger to the Reich Ministry of Economics attention of Dr. Mulert. Dr. Mulert is a witness who has already been here and will probably be here again. It is dated 14 September 1939 and concerns Polish Dye Stuff Plants, and you will note Schnitzler and some other Farben people had a conversation concerning the Polish Dye stuff Plants that same day and Schnitzler states: "It is suggested that the Reich Minister of Economics 'order' the I.G. Farben to take under it's administration as trustee of the Reich the following plants located on the territory of the public republic Poland "

There has been considerable talk about compulsion in this case and it seems to us that this is seeking a certain amount of compulsion by the Reich authorities in a way which would be favorable to Farben.

You will note that there is a suggestion for the appointment of two specialists, Schwab and Schoener, who are Farben people, and as you will see they were in fact appointed. It is interesting to note that Schnitzler writes this before he had had the benefit of any information on the Wurster report and yet he seems to be fairly well advised about what plants could have only local interest and those which would have more far reaching importance as far as the German economy is concerned.

You will note of page 57 of the English and page 89 of the German, Schnitzler mentions who owns what in so far as the chemical industry is concerned and he notes "Wola" is a non-Aryan family enterprise. Again on that same page when a foreign participation becomes involved, you will note a different I G attitude. In the middle of the page, the largest full paragraph, the last several sentences:

"On the basis of the option agreement existing between the I G Farben-industry and the I G Chemic in Basel, the I G would at any time, be in the position to acquire from the I G Chemic, with the

consent of the government of the Reich, the shares of the I.G. Chemie on the Winnica at the inventory price. We, therefore, believe ourselves entitled to make in the interest of the I.G. Chemie, those decisions which are expedient for the preservation of its value."

In other connections, we have claimed that I.G. Chemie, Your Honors, was a useful Gummy for Farben and I don't think we would have to go much farther than this to uncover that particular sophistry,

May I just finish the document before we recess?

THE PRESIDENT: Yes.

MR. SPEECHER: The cynical approach to the whole problem is indicated in the middle of page 90 of the German: Quote:

"The Chemical Plant Wola which is based almost exclusively on intermediary products of the Boruta and which has no importance as an independent place of production, would continue to operate on as far as reaching a scale as possible."

And then if you will jump down further on that page you will note the whole scheme, the whole question is the important German Economy, the German War Economy:

"Its importance for the German war economy is at present to be rated the higher, as 85 % of the production of tar dyes and their intermediate products are located at the plants of the I G in Western Germany, and of those a very considerable part in Ludwigshafen, where the production of dyes is to be cut down to a minimum. Every plant for the production of organic intermediate products and dyes, which is not located in the West, has, therefore, at the present situation, a double value."

Now you will find, Your Honors, that France was shortly after this vanquished, and, therefore, the danger in the West changed, but Farben managed to find some other reasons why it needed these properties within its domain and we will come to that very shortly.

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Now you will note at the top of page 858, that is page 91 of the German that Schnitzler notes that a certain part of the Winnica plant will be very interesting for immediate army purposes, and then down at the bottom of the page again:

"The remaining smaller dye plants, according to the list communicated in the opening of this, would have to be closed down, of course.

"The utilization of the supply of finished products in the plants, as well as the distribution of the new products, should be handled in such a manner, that they benefit foremost the German Economy as a whole."

And now continuing the next thing shows special cynicism with reference to what may happen:

"The authorities would have to decide whether and to what extent certain parts of them should continue to supply the Polish market. They mainly would serve to relieve the German dyes market, and to raise the German dyes export respectively."

That concludes this document.

THE PRESIDENT: The Tribunal will rise for the morning recess.

(A short recess was taken.)

THE MARSHAL: The Tribunal is again in session.

MR. SPRECHER: With your permission We will deviate in order to raise the question brought out by defense counsel in connection with NI-11378, which is Exhibit 1120. The letter was signed by Maurek - Maurek - who is head of the personnel department of the present Aussig Plant, and the issue is the chemical and metallurgical production. Of course, what it is is a combination of letters he found in the files concerning the dismissal of people of Czech nationality and persons of Jewish faith or Jewish origin. It is not an affidavit. It is a letter addressed to us. We feel that we should treat this document the way we treated a similar document yesterday, and the Prosecution will undertake to have this put into proper affidavit form.

THE PRESIDENT: Well, under the liberal practice that the Tribunal has indulged, we will leave the matter open to such further showing as the Prosecution may make with respect to the document and such further objections as counsel for the defendant may wish to raise concerning it. The document will stand in evidence, subject however to those limitations.

MR. SPRECHER: Since we are on the point, I might just say, it seems it is customary on the continent for a letter which has an official letterhead and which is signed by some one in official authority does have slightly more weight as the subject of evidence than it would have in the United States and sometimes it is difficult for us to persuade these people in these countries that they have to sign before a Notary and that is why this has occurred, and we will try to remedy such deficiencies where the defense thinks it will improve in the matter and to exercise such rights as they may have.

THE PRESIDENT: Very well.

MR. SPRECHER: The next document is NI-1093, and may go in as Prosecution Exhibit 1140. This is a letter, copy of a letter from the Reich Ministry of Economics, dated 21 September, 1939, to the defendant

Schnitzler, concerning the Polish Dye Works, and you will note that Farben suggestions are followed. However, it is interesting to note that the Reich Ministry of Economics had some reservations with respect to this whole project which it has stated rather clearly on page 95 of the German, page 60 of the English. You will note, Your Honors, the following paragraph:

"The operation of the enterprises will thereby have to be adapted to the requirements of the German War Economy and German export to neutral countries.

"I reserve the right to alter or to cancel this commission at any time, and to settle the problem of management otherwise."

Of course, that was in line with what Farben had proposed, but if you will skip down to the second paragraph below that you will note the following: The RWM, Reich Ministry of Economics did not want this appointment of the Farben trustees to make any particular basis for a claim at a later stage for a change in the property conditions.

You will note on the next page that RWM also stated that the personnel to be employed should be largely German personnel as far as possible. I think that carries back into a newspaper article we mentioned this morning to some extent. You will notice the letter is signed by Von Hannecke, who was a witness in this trial.

The next document is NI 8380 which the prosecution offers as Exhibit 1141. This is a letter from Farben, signed Schnitzler, dated 10 November 1939, to the Reich Ministry of Economics, and you will note that Schnitzler makes the distinction between the Warthegau, the incorporated part of Poland, the annexed part of Poland, and the rest of Poland. Now, at the bottom of the page there's a notation that Farben is anxious to have established an acquisition company which will enable Farben to make certain investments in order to put Boruta into operation again and that these trustees, who're already on the spot and operating the Boruta plant, would take over the business management underneath one of these dummy concerns which would be controlled by Farben.

Over on page - over on page 3 of the stenciled copy, Your Honors... This is a document delivered into. It's marked page 99 in your books, I believe. In any event, it's on page 3 of the stenciled copy and on page 98 of the German document book, under II, Schnitzler talks about certain plants having "no economic justification. The apparatus installed there should be taken down in the most practical way and removed to Germany proper."

You will notice the similarity between this document, in a number of cases, and the Wurster report. This was, of course, after the Wurster trip had been made.

And Schnitzler again, under II b., talking about Winnica, states Farben's view:

"It is now not only in the interest of private economy but also, in view of the future, of public interest that the factory in question should not be the subject of an open liquidation."

Of course, the problem there relates to I. G. Chemie and the fact that a French concern owned 50% of the shares of Winnica. How Farben finally got control of these shares will be brought up later.

The next document is NI 8373 which may go in as 1142. This is a letter from Schnitzler to Goering and sub-addressed to the HTO in which Schnitzler requests that the HTO write a certain letter which amounts

to an announcement of policy concerning the handling of these matters, and I think we can pass by it. It's Farben asking for the position of one of the main government agencies and what authority is outstanding between Farben and that agency with respect to the taking over of Boruta. You will note that Farben is indicating a certain interest in this dummy corporation at this time. We mention that because, later on, the dummy corporation did not have to be formed. Farben got complete control of the plant and then just made a separate corporation to run it.

The next document, NI 8375.....

THE PRESIDENT: Just before you got to that, Mr. Prosecutor, might I take the liberty of just inquiring and I do this on my personal responsibility, certainly in no criticism whatever of the way you have presented your documents, but in discharge of the personal responsibility that I feel to expedite this trial. Is there any sound reason that you now think of why the last five documents could not have been summarized in one single statement and then perfunctorily offered after you had summarized them, inasmuch as they all, as it now appears, relate to one defendant's connection with one phase of the case. Now, I'm just curious to know, and certainly not critical of the way you have done it, but would it not have been possible, in presenting these documents, to have told us in one connected story what the last five documents amounted to so far as the connection of this defendant and then follow the practical method that I took the liberty of suggesting with respect to the other this morning, and thereby have saved a good deal of time and effort for us on the part of counsel?

MR. SPRECHER: Mr. President, I think your suggestion would have been followed if we had known about it in time to make preparation.

THE PRESIDENT: Certainly I'm not saying that you should have done that and I have no criticism of the way you have done it for, after all, we have no matter of policy here and I notice none of your associates here, but it just occurred to me that might be one effective way of eliminating some of the consumption of time, and I'd just be glad to have you consider

it and if you do find it practical, use it, and if not, I'll not speak of it any more. But where a group of documents relate to one thing, it would save much space on the record and much time in the court room and it would also be very helpful to the Tribunal if we knew the picture of the group of what the group of documents is to establish, and then there would be just the mechanical process of marking the documents and entering them on the record along with any comments you wanted to make with respect to any one of the documents. Now, that is all. I'll not bring that up any more, and I don't want you to understand that we are criticizing because there is no matter of policy here. It just occurred to me as I glanced over the index.

You may proceed.

MR. SPRECHER: Thank you very much, Your Honor. We appreciate both suggestions and directions from the court in that connection. There were a couple of points where I wanted to relate some of these documents or other defendants because Schnitzler was acting, after all, on behalf of Farben, he signed on behalf of Farben, and I think showed the general policy of Farben with respect to that plant.

The next document is merely given to Your Honors to indicate the draft of a contract which was never consummated. I might only say our purpose is to show, in case it becomes important for you, to go into the stages, to go into that document, and we'd like to make it in evidence for that purpose. If you will not Article IV and Article X, you will note the two main things that seem to us to be important here. Article IV in the draft was to provide that I.G. would take over the contracts with employees and workers but it would not take over any of the old age pensions acquired by the employees and workers because of any of their activity in these plants prior to the German invasion, and Article X gives Farben, of course, this preemptive right of purchase. This may go in as Exhibit 1143.

The next document, NI 2998, is a copy of a letter from the defendant von Schnitzler and Kuepper, the Farben lawyer, to Mahnke in the Ministry

of Economics in which Schnitzler notes that Farben can now consider purchase of Boruta.

And then we then pass to the next document, NI 11.....

I'm sorry, I didn't give that an exhibit number. That should be Exhibit 1144. The next document, NI 1198, may go in as Prosecution Exhibit 1145. It's a copy of a memorandum by Eckert, E C K E R T, concerning a discussion in the HTO between government representatives and Farben, concerning the future of Boruta. Would Your Honors note, underneath those present, that there was an SS officer present as the representative of this organization for the consolidation of Germandom in the East. I mention that because of the objection that was made towards the newspaper article this morning. I think the reason why that gentleman was present in these conferences comes out very clearly in the document. The SS and Himmler himself was concerned about this matter. If Farben took over this plant, there was less chance for the expansion of some separate enterprises for properly Germanized people, or for SS concerns in the area, and questions were raised, as you will see in the document itself, as to whether or not Farben was going to undertake the proper amount of activity which would supplement the whole Germanism idea in Poland, and since those assurances were made, the SS gave its consent to Farben acquiring the property.

There arose some question also about the price and Farben didn't want to pay the German government - of course, the Poles were receiving nothing - but Farben didn't want to pay the German government the value of this firm with any "account for good will", because Farben said, going by German conditions or operating under German conditions, there was no such thing as good will for this plant. That's at the top of page 74 of the English and page 111 of the German.

Now on page 76, I'd like to bring out one reference. It's on page 115 of the German. The HTO asked the question as to why Farben was still interested at all in acquiring Boruta since the alleged original motive back in the early days, you will remember, was to use Boruta as a standby plant for war damaged Western plants. By the time of this conference, toward the end of 1940, France had been overrun and obviously that was no longer a consideration at the time. I.G. retorted that its reason was, of course, in the interest of the German dye producers and they wanted to integrate these dye stuff plants into the sphere of I.G.'s dye stuff production and that this could only be done through acquisition through purchase, and, at the bottom of the page, HTO did ask, in the presence of the SS representative, you will recall, that I.G. should take up the study as to how it could direct the Boruta towards "achieving an expansion adapted to the development one is striving to obtain for the East in the light of racial policy."

The next document is NI-8382 and may go in as 1146. It's a letter from Mahnke from the Ministry of Economics merely stating that, according to information he had received by telephone, Himmler - that is, the Reichsfuehrer SS - had now made up his mind that the Boruta could be allocated to Farben.

The next document is NI-8385 and may go in as Prosecution Exhibit 1147. Apparently there was some chance that Himmler would change his mind. The Gutbrod Brothers "who have excellent connections" were still trying to get Boruta. The Gutbrod Brothers did not succeed, but Farben was a little worried for a little while.

We now pass to the next document book, which is Document Book 56.

The first document is NI 806 which may go in as Prosecution Exhibit 1148. This is a letter from Schnitzler to SS General Greifelt who was the Reich Commissar for the Consolidation of German Folkdom. In the opening statement we pointed out that Greifelt had a good deal to do in that position with the kidnapping of Polish children and with the whole racial problem of putting Germans where Poles had formerly lived in their own homes. Schnitzler thanks Greifelt for his help in connection with the negotiations that permitted Farben to acquire Boruta and, in the last paragraph, gives him assurance that Farben will do exemplary work from the technical, no less than from the social and national-political point of view.

The next document is NI-6829 which may go in as Prosecution Exhibit 1149. This is the document which authorized Mahnke of the Reich Ministry of Economics to act on behalf of the former Polish owners or natural persons who had owned Boruta for the purpose of selling it to Farben.

And the next document, NI-6831, Prosecution Exhibit 1150, is the actual copy of the contract whereby the deal is consummated. You will note in paragraph 5 of the contract that the contract was made effective as of 1 October 1939, which runs back to the time even before Poland was

completely digested, but when Farben commissars were already on the spot. I think paragraph 7 again indicates the whole race system idea, Germanism idea. Farben would be responsible in paragraph 7 only for annuities to German nationals, Reich Germans, but not to any Poles or Jews who may have had rights.

The next document, NI-6830, may go in as Prosecution Exhibit 1151. It's merely the approval of the head of the HTO to the deal.

The next document, NI 6935, may go in as Prosecution Exhibit 1152. This is a letter of the Reich Governor of the Warthegau, dated the 18th of February 1942, which approves the establishment of the firm "Teerfarbenwerke Zgierz." You will notice it's addressed to Farben. This document marks the end of the name Boruta, which was Poland's largest chemical plant, and the Germanization with respect to Poland's largest plant at this time was complete to the point even of the name of Boruta.

Mr. Newman will continue.

MR. NEWMAN: The rest of this book, apart from the last document, will deal with the two Polish plants Wola and Winnica. A description of both plants was already submitted this morning by Mr. Sprecher, as Prosecution Exhibit 1136 and 1137. Contrary to the Boruta plant, these two plants were located in the so-called Government General, but as we have seen from our first four documents in Document Book 55, the Government decrees referring to the incorporated part of Poland and the Government General amount to the same sequestration and subsequent confiscation, so that there is no big difference. The authority, however, having jurisdiction in this case is no longer the HTO, the main trustee office East, but it is now the Governor General for Occupied Polish Territory, Department for Economy.

Our next six documents mainly refer to the Wola plant in the Government General of Poland. This factory, as we saw, was owned by Dr. Szpilfogel, whom we shall call to the stand after the recess. May we first refer back to Prosecution Exhibit 1139 which Mr. Sprecher submitted today - Farben's letter, signed von Schnitzler-Kuepper, to the Reich Ministry of Economics, Dr. Mulert, where it is said, with reference to the Wola factory, that this chemical plant should be closed down. In accordance with this original suggestion, our next document, which we mark 1153 - that is NI 8397 - is an application for acquiring the equipment or part of the equipment of the Wola plant. May I read one paragraph of this document. That's page 15 of the English book and page 47 of the German book. I quote: "According to the inclosed notification of the Reich Minister of Economics, dated May 7, 1940, you have agreed, among other things, to grant our application for the transfer of the" I omit something ".....of the betaoxynaphthol acid installation of the Wola, to Greater Germany."

We are then turning to our next document, 1154, that is NI 8378. This is a letter signed von Schnitzler-Eckert, and it contains the lease agreement between Farben and the Governor General for the Occupied Eastern Territories, concerning the betaoxynaphthol installation mentioned in our proceeding document. This letter is page 17 of the English book and page 49 of the German book. I would like to read the second paragraph. I quote:

"You grant us the right to transfer the rented installation at our own expense to the factory of the Chemical Industry Boruta leased by us, or to any of our other factories or to some other place in the German Reich, and there to make unrestricted use of the installation for our purposes."

Also number 6 of this page - that is page 50 of the German book, there is a preemptive right for Farben:

"You grant us purchase priority privileges with respect to the installation leased according to NO. 1."

Our next document, which we would like to mark 1155, is NI 707. This is the letter written by Mr. Szpilfogel, the owner of the Wola plant from the ghetto to Mr. von Schnitzler. It is page 19 of the English book and page 51 of the German book. Your Honors will recall that this letter was quoted by General Taylor in his opening statement. Szpilfogel has not received an answer to this letter. Schnitzler in his turn sent the letter to Schwab, the trustee in Poland, where he told him that he doesn't want to have anything to do with this matter. Now, in the German book there was a third letter and it is the same NI number - Szpilfogel's answer to von Schnitzler. This letter was missing in our English book and we have therefore submitted it to Your Honors as pages 20A and 20B, and I trust it is now before Your Honors. We didn't give it a special exhibit number since it is part of the same NI number.

Our next exhibit, 1156, NI-8388, is a decree of confiscation concerning the Wola Plant, owned by Dr. Szpilfogel.

We offer as Document 1157—that is NI-7371, a letter by Farben's management department to Farben's analytical laboratory at Leverkusen, dated November 10th, 1942. This letter is page 22 of the English book and page 54 of the German book:

"From the stocks of the former Polish dyestuffs plant 'Wola' which has been closed down and is administered by Farben as trustee, quite the series a series of products are available which we may take over."

And then a list of these products is given.

May I invite Your Honors' attention particularly to this writing that the Wola factory in the phrase I just read is administered by Farben, as trustee, while the official version was that those two trustees were appointed by, and acting for, the German government.

We now submit Prosecution Exhibit 1158, which is NI-6738, an affidavit by Mr. Lasocki, which concerns Mr. Szpilfogel and his Wola plant and the confiscation of the equipment.

May I again refer Your Honors to an affidavit which we submitted after this book was compiled? That is Dr. Szpilfogel's affidavit which I would like to mark Prosecution Exhibit 1159, and which, for convenience, we should call pages 26a, b, c, d and e of the English book, and pages 60a, b, c—up to i, of the German book.

I am going to quote from this affidavit since we shall interrogate Mr. Szpilfogel after the recess.

THE PRESIDENT: That has document number—

MR. NEWMAN: The NI number is 10416.

We then turn to the third Polish chemical factory of Winnica, again in the Government General. Here again I would like to refer back to von Schnitzler's letter, Prosecution Exhibit 1139 in the Document Book 55. I quote; from the first big paragraph: "The chemical plant Winnica was re-organized with our concurrence in 1929 by the French dyestuff in-

dustry to create, on the one hand, a rival firm against the Polish national plants in Poland, and, on the other hand, to keep up or regain the business lost through import duties and prevention of import by production in Poland. This plant is publicly considered French. In its inner structure the I.G. Basel, with which we are on friendly terms, owns fifty percent of the shares, approximately one million zlotys."

We shall first deal with the removal of the equipment and machinery from Winnica to Germany, and then briefly show what happened to the French fifty percent share in the enterprise.

We are offering now Prosecution Exhibit 1160, NI-8396. This is the lease agreement signed by von Schnitzler and Eckert, contained in a letter to the Governor General for the Occupied Polish Territories, of 11 June 1940. The lease agreement is precise copy of the lease agreement we just read in the case of the Wola factory, so that I don't have to quote from it again.

Our next exhibit, 1161, is Document IN-8400. This is page 29 of the English book and page 63 of the German book. It again concerns shipment of installations from Winnica to Farben's plant at Ludwigs-hafen. I would like to add here that the name Winnica is not mentioned in this letter but from other material in our possession, with which we did not want to burden the record here, it appears clearly that Winnica equipment was aimed at. If there should be any doubt in the minds of the Defense that Winnica was meant, we shall gladly submit such additional material.

DR. HEINZELER: (for Dr. Warster)

Your Honors, I would like to point out to you that this document cannot be considered to be relevant as long as it is not shown with what apparatus we are concerned with, and from where it is supposed to have come. I think it is necessary that the Prosecution give us a further explanation on this point.

MR. NEWMAN: I have just stated we shall gladly give you further information.

THE PRESIDENT: Very well.

MR. NEWMAN: Our next document, which we mark Prosecution Exhibit 1162, is an affidavit by Franciszek Kacprezak, NI-6739. This affidavit describes in detail the looting of factory equipment and property by the two trustees. As it appears from the designation of such equipment, it is partly identical with the equipment shipped to Farben plants, as shown in the evidence already before us. I should also like to mention here from page 31 of the English and 65 of the German book that this witness suspects Schwab of having caused the German Army to completely destroy the factory. This may be taken as a symptom of Schwab's personal unpopularity, but it is not submitted here as evidence for Schwab having indeed caused the final destruction.

The next few documents deal with Farben acquiring the French share in Winnica. We submit as Document 1163--that is NI-8394--a memorandum signed among others by Ter Meer, where on page 2--that is page 33 of the English book and page 68 of the German book--the acquisition of the Winnica shares from the French is being outlined.

Our next document 1164--that is NI-6941--is Farben's application to the Reich Ministry of Economics, dated August first, 1941, for a license in order to acquire the French share in Winnica. As reason for the acquisition the letter just states, I quote from page 35 of the English and page 71 of the German book, next to the last paragraph: "As is known, I.G. Farben will acquire a 51 percent holding in the French dyestuffs industry in the course of the re-organization of the European dyestuffs production. Within the framework of this organization a French participation in the dyestuffs factory located in the General Government was no longer desirable."

Our next document, 1165, that is NI-8389, just evidences the revocation of the trusteeship concerning Winnica, after Farben had acquired the French share.

Our next document, which we mark Prosecution Exhibit 1166--that

is NI-9266—is a decree by a French court of which we would like Your Honors to take judicial notice. This decree is based on the Inter-Allied Declaration which we presented as the first document in our Austrian Book. This was Document Book 52, the first document therein, Exhibit 1057. Now, the order as filed in this book is not quite comprehensible because just the order appears—and not the reasons leading to the order. We shall, therefore, submit to Your Honors and to the Defense another document which we would like to mark for identification purposes 1166A, and NI NO-9266A, which will be submitted at the end of this week, where the full reasons appear.

If Your Honors please, we shall give it another number, and we shall refer to it later. This order is based on the Inter-Allied Declaration against Spoilation in German Occupied Territories, and declares null and void the transfer of the French half of Winnica.

We withdraw the exhibit number 1166A and NI-9266A. We shall give it a new number later.

THE PRESIDENT: Then the last document which you have offered, Counsel, is 1166?

MR. NEWMAN: That is right.

Our next two documents are two affidavits by von Schnitzler, already submitted, NI-5194 and 5195. This is in Document Book 16.

THE PRESIDENT: Will you give us the exhibit number of the Document NI-5194?

MR. NEWMAN: That is Exhibit No. 1083, in Document Book 54; and the affidavit, 5195 is Exhibit No. 1056, in Document Book 51.

THE PRESIDENT: Thank you.

MR. NEWMAN: I am not going to quote from the affidavits here but I would like to draw Your Honors' attention that the following parts refer to Poland. First, page 42 of the English book, which is page 82 of the German. Then page 59 of the English book and page 96 of the German book; and, finally, page 64 of the English book, which

is page 102 of the German book,

And in the next affidavit, page 70 to 74 of the English book
and 108 to 111 of the German book, deal with the Winnica factory.

THE PRESIDENT: If counsel pleases, this would be a good time
to suspend for lunch. The Tribunal will rise until one-thirty.

(A recess was taken until 1330 hours.)

AFTERNOON SESSION

(The hearing reconvened at 1334 hours, 23 Oct. 1947.)

THE MARSHAL: The Tribunal is again in session..

MR. NEWMAN: The Prosecution presents NI-7367 which we already submitted in Book 15, Exhibit 397. This is Eckert's affidavit. In view of the particular importance of this affidavit we are introducing it here as page 84 of the English book and page 121 of the German. We would like to read just one paragraph, page 84, the bottom; this says, "that in my opinion the seizure of the Polish factories constituted a wrong from the aspect of both state and private economy. I believe to remember that I voiced said opinion and discussed it with Mr. von Schnitzler. I also believe to remember that Mr. von Schnitzler as well as Mr. Schwab, with whom I think I discussed it, shared my point of view. In spite of this, Farben took the initiative in connection with the acquisition of the Polish enterprises. Farben's doubts with reference to the illegality of the acquisition were silenced by the fact that, as mentioned hereinbefore, there were interested parties in Nazi circles who would have been only too glad to acquire the factories at a low price. It was Farben's endeavor to see to it that, under no circumstances, any such competition could arise."

Our next document, which we would like to mark 1167 — that is NI-8783, is Kuepper's affidavit, page 87 of the English book and 125-126 of the German. Again I would like to read one paragraph here, in the middle of the page: "The legal aspect of whether such an acquisition" — referring to the acquisition of the Polish plants — "was at all admissible according to the international agreements which Germany had signed was, to my knowledge, not examined. The German Government declared that all the Polish property — values in the Warthegau had been transferred to the ownership of the German Reich and that the Polish State had ceased to exist. People seemed to be satisfied with this explanation. I must say that the reasons on which the Reich based its rights to this transfer seemed to me extremely odd at the time."

We thereby conclude our case, as far as Boruta, Wola and Winnica are concerned, and we submit as our last document in our Polish Book, Prosecution Document No. 1168. This is NI-6064. This is a letter of Farben's Commercial Department Bitterfeld of December 12th, 1940, to Farben's Ordnance Office in Bitterfeld, concerning bills for equipment removed by Farben from the Polish city of Blizyn. Enclosed with this letter are excerpts of copies of three bills bearing the same date as a letter from the Army High Command, Berlin, to I.G. Farben Bitterfeld.

If Your Honors will kindly turn to these enclosures, the English stencils are less impressive than the original copies. I would like to particularly point to the fact that these bills, ostensibly made out by the Army High Command, are written on printed Farben stationery, giving the name of the -- company -- that is I.G. Farben -- in print. That means that this was no individual case, but that, as a matter of routine, Farben took out equipment and machinery it could use from Polish factories and shipped them to German plants, thereafter suggesting the price to be paid therefor to the Army High Command.

MR. SPRECHER: Prosecution calls as its witness Dr. Maurycy Szpilfogel.

THE PRESIDENT: The marshal will bring in the witness.

MR. SPRECHER: I may state, pursuant to Your Honors suggestion previously, we have only a few addition questions to ask the witness, all of which are related directly to the matters in this affidavit.

Mr. President, I might state in advance that the native language of the witness is Polish, but he speaks fluent German, and the interpreting facilities will be as if his native language were German.

THE PRESIDENT: In that connection, the President has only the German-form oath. Is he a Polish national?

MR. SPRECHER: Yes.

THE PRESIDENT: Can you presently advise me as to the form of oath that prevails in his country?

MR. SPRECHER: I am sorry, Your Honor, I cannot. I think either of the two forms would be satisfactory to solemnize the occasion.

THE PRESIDENT: Very well.

DR. MAURICY SZPILFOGEL, a witness, took the stand and testified as follows:

THE PRESIDENT: The witness will continue to stand, raise his right hand, say "I" and state his name.

THE WITNESS: I, Dr. Maurycy Szpilfogel -----

THE PRESIDENT: The witness will now repeat after me: " --"swear that the testimony that I am about to give will be the truth, the whole truth, and nothing but the truth, so help me God, "

(The witness repeated the oath,)

The witness may be seated.

THE COURT: The witness may be seated.

DIRECT EXAMINATION

OF DR. LAURICZ SZPILFOGEL

BY MR. SPEECHER:

Your Honors, the affidavit with which we are concerned is NI 10416, Prosecution's Exhibit 1159, Document Book 56, page 26a of the English, and page 60a of the German.

The witness has a copy of his affidavit before him.

THE PRESIDENT: Very well.

Q Dr. Szpilfogel, you are a Polish citizen?

A Yes.

Q And where are you now residing?

A In Poland I was born in Piotrkow, in Poland.

Q What is your present residence?

A In Geneva, Switzerland.

Q And prior to the invasion of Poland where was your address in Poland?

A Before the war I lived near Piotrkow in Vola Krzystoporsk.

Q Now in connection with the affidavit which is before us, Dr. Szpilfogel, do you wish to make any additional statements to your affidavit of the 25th of August, 1947?

A Yes. May I speak now?

Q Yes. Please be brief.

A I wanted to give you some additional information that is one of the most important installations of Krzystoporsk which belonged to me: it was the installation for beta oxynaphthol. The entire plant and the boilers of the hydrogenation plant, and copper boilers, were transported away to Ludwigshafen and Offenbach, near Frankfurt, by the Germans.

Q Do you know what became of the beta oxynaphthol plant or not?

A I don't know that. I merely know that it was transported away either to Ludwigshafen or to Offenbach, near Frankfurt/Main, for

I.G. Farben.

Q Why do you say that the plants went to I.G. Farben?

A Because this was told to me after the liberation, after the Germans were chased out of Poland; my workers told me and Saranski a workman who stayed there all during the occupation, and also the brothers Mytszerek, who knew this in detail, explained to me that it was transported away to Germany, and told me that the machines were packed and addressed, "Property of Farben".

Q Now in your affidavit you referred to the fact that I.G. Farben man, Schwab and Schoener, requisitioned considerable stocks from you, for instance several tens of thousands of kilograms of dyestuffs, and intermediate products?

A Yes.

Q Do you know whether or not these products, -- what happened to these products after they were requisitioned?

A A part of these products, namely about 30,000 kilo of dyestuffs which were stored in Warsaw in my building in the Myszinow Street 27, these materials were requisitioned by Director Schwab. He put a seal on this room, and told me, "You are responsible to see that this does not disappear", and later when he and his representative Fulde, were in Warsaw, these two people took these goods into the store of Farben and sold them later, on behalf of Farben. Part of these sold materials even went back to my old customers, who said later, "We bought your goods from Bruno Fulde"; "we bought your goods there, from the representative of Farben". That is what I know.

In regard to the other dye-stuffs, I had a store in Lodz with my representative Jacob Peters. There were about 50,000 kilograms of dye stuffs which the German representatives in Lodz took over -- they were Farben representatives. The address was Szinkiewiczza Strasse 55, and it was renamed Schiller Strasse by the Germans.

Their representative was a short man by the name of Obertshaeuser, who sold these goods later for Farben.

The other storeroom in 'ola, Polsky, were about 100 tons of old materials, -- raw materials were stored, and about 30,000 kilograms of dyestuffs.

This was transported to Indi-Minica, and also a plant belonging to Farben, and worked into dyestuffs. Everything was taken away.

Q Did the Trustees, Schwab and Schoener tell you whether they were working for I.G. Farben or whether they were working on behalf of the German Reich?

A They showed me a document that they are the commissioners; that they are authorized to take everything that belongs to the chemical plant in 'ola, and also they took my houses away from me, and I know that they did this, for Farben, because the representatives of Farben, -- that is Bruno Fulda, the representative in 'arsaw, and the Barmanil, which were also Farben people, and Vinz, which was also a Farben plant, sold all of this material and took the cash for it, for Farben.

And later the credits which were coming to me from my clients, -- our goods were sold at long range, and on credit, -- and they also cashed the credits coming to me, for Farben. There were about a quarter million zloty.

Q Were you the proprietor of the 'ola Chemical factory yourself alone?

A Yes, it was a private enterprise, and belonged to me completely, 100 per cent, which can be seen from the Commercial Register.

Q Were the accounts receivable which you mentioned, credits which were outstanding and due to you personally, and to your firm?

A Yes, of course, that belonged to me. I was the sole owner of this firm.

Q In your affidavit you mentioned that you wrote a letter to von Schnitzler from the Ghetto in 'arsaw, asking him for employment in your own factory. How did you happen to write to von Schnitzler

rather than to somebody else?

A I knew Director von Schnitzler personally, since we had met frequently in Warsaw, at meetings, in connection with the Tri-partite cartel, where I also was a member of this cartel. We met there and got together and were on friendly terms with each other, and I hoped that, when I turned to this well-known man, he might help me in the misfortune that had come upon me. That is why I wrote to him.

Q At that time, was it still possible to receive letters in the Ghetto of Poland?

A At that time, yes. That was at the beginning of 1941. I received letters from Switzerland also during that time.

Q Now in your affidavit you stated that the Trustee Schwab, was particularly rigorous in his handling of this matter. Could you indicate in a little more detail exactly what you mean by that?

A Schwab, whom I knew personally, and from whom I expected better treatment, when I asked him, and when my wife asked him, -- as a matter of fact, I even was angry with my wife because she wept when she presented this request to Schwab -- I told her, "Don't be so subservient, and don't show your tears to an enemy." -- we asked him that he should do something for us, since we were suffering great hardship. My mother-in-law, the mother of my wife, an old woman, and we had a daughter, and my son-in-law who were with us, and a sick son, who was in the sanitarium. These gentlemen knew that they had to be cured, and trustees sometimes give a family more than 500 zloty a month to help and make it possible to cure our sick son in the sanitarium. I wrote to Mr. von Schnitzler in the same sense. I asked him that, but he did not comply with my request.

Q. -In connection with your dealings with Schwab and Schoener did you ever see any written instruments, written by them?

A. What kind of written instruments? I did not understand you correctly.

Q. Dr. Szpilfogel, in connection with your houses which you owned in Poland, did you see at any time any written instrument by these two trustees?

A. Yes, I have a document here, which came into my hands after the Germans had left Poland. In the house of Barwanil, which was later taken over by the Polish authorities, a chemist, a friend of mine, gave me this document from which it can be seen, -- perhaps I should give you this document. This document deals with the houses that were confiscated and in which the gentlemen from Farben asked that a part of their taxes, that they paid to the government, should be repaid to them, since these houses were built by authority of the Polish government, which would exempt them from taxation. That is to say, the amount which was put into the construction of new houses was exempt from taxation, and that is a proof for me that the three houses belonged to me, and that the directors of Farben asked that these houses, which amount to about 3 or 4 hundred thousand zloty, that this amount should be deducted from their taxes.

Q. Does the letter you have in your hand make any reference to the fact that you are a Jew?

A. Yes, may I read it to you?

Q. No, that won't be necessary, witness. The letter is available for the defense if they wish it.

I have no further questions.

THE WITNESS: Am I free to go?

THE PRESIDENT: Just a moment, please.

The witness is available to the defense for cross-examination.

Dr. VON KELLER, counsel for the defendant von Schnitzler:

CROSS EXAMINATION

Q. Witness, you stated just now that you are residing in Geneva?

A. Yes.

Q. May I ask you since when are you living there? When did you leave Poland?

A. In the middle of April of last year.

Q. You still own real estate there?

A. My factory was destroyed, and I had nothing to do in my factory any more in Poland. My daughter had been transported away to Belsen-Bergen.

Q. I want to ask you whether you had any real estate in Poland?

A. No, only the chemical factory, which was destroyed.

Q. You owned land before, didn't you?

A. Yes, I was the co-owner of this estate, Wola, which belonged to my family.

Q. Is this estate still confiscated?

MR. SPRECHER:

May I ask counsel to state his purpose? The question of whether or not the present Polish Government has or has not, in the interests of the people within the state which it heads, confiscated this property or not, seems to us can have no relevancy in this proceeding, but if counsel has a different purpose, I would be glad to hear it.

THE PRESIDENT: The Tribunal will be glad to hear the argument of counsel of both sides as to the competency or incompetency of the evidence.

DR. von KELLER: Mr. President, I put this question in order to fix the period of time which elapsed between the spring of '45, when the witness was liberated, and the time when the witness made his affidavit in Geneva, and to find the reasons why the witness moved to Geneva.

MR. SPRECHER: Your Honors, we have no objection — Your Honors we would have no objection to that question being put in that direct form.

THE PRESIDENT: That expresses the view of the Tribunal. We do not think that the question is proper cross-examination, but we think the purpose that counsel for the defendant has expressed, as to why he has asked

this question, would be proper. In other words, that you may ask him why he went to Switzerland. That in our view would be a proper inquiry.

If you will rephrase your question to elicit that information we will permit the witness to answer.

DR. von KELLER:

Q. Witness, then may I ask you, what were the reasons that you left Poland and moved to Switzerland?

A. Because I had nothing to do in my factory in Poland any more. It was destroyed and everything had been stolen away. There were no machines, no materials left, and my daughter who had been evacuated to Belsen-Bergen, later went to Sweden and went to the sanitarium there. I myself lost my health, and suffered a heart attack, through German prosecution in Poland.

I then went to Sweden and to Switzerland, where we were taken in by our relatives so that we might get a chance to recuperate from all of the experiences, and horrible conditions that we went through.

Q. Witness, is it also important that you no longer had any right of your land in Poland any more?

MR. SPRECHER: I think it is patently clear why this type of question is really being asked. If counsel wants a stipulation, we will state that the present Polish government has nationalized the chemical industry of Poland, but we think that it does not require this type of questioning in order to bring that fact out, and we also think that it is completely incompetent in this inquiry.

THE PRESIDENT: Does the counsel for the defendant wish to join with the prosecution in stipulating the facts stated by the prosecution?

DR. von KELLER: Mr. President, I do not know the conditions under which things were nationalized in Poland and therefore, I cannot arrive at some stipulation. However, if the witness makes such a statement, then I shall have no further questions at this point.

MR. SPRECHER: I think the explanation shows the incompetence of the question completely.

THE PRESIDENT: The Tribunal is of the view that this present inquiry is calculated to lead us a field from the affidavit and the testimony-in-chief that the witness has offered. The objection is sustained.

DR. VON KELLER:

Q. Witness, in your affidavit, you describe your career, your education, and your activity in the dyestuffs field. You were the sole owner of the Wola-Krzystoporska plant?

A. Yes.

Q. I should like to ask you, in order to fix the size of your plant, as compared against the other Polish dyestuffs plants, -- for that purpose will you please tell me what other plants existed in Poland for dyestuffs?

A. Boruta, Pariwnyze Chemical Department of Pariwnyze, and the Chemical Industry Basle. Then there was Minnicz and also my Wola Polsky.

Q. If I asked for importance would you then agree with me if I saw that according to production figures, Pawienyze was the largest?

A. I believe Boruta was the largest. Pawienyze produced a lot of pharmaceuticals, but in dyestuffs, I think Boruta is larger than Pawienyze.

I am only referring to dyestuffs.

Q. But since you do not have the figures, I do not wish to interrogate you in detail about this point. The third was Pawienyze?

A. Yes, approximately.

Q. And the fourth was your enterprise?

A. Yes, as concerns Pawienyze and Wola there was not much difference between the two.

Q. Approximately how high was Polish dyestuffs production altogether? If you still have any figures available about this? I do not want to insist on it.

A. I cannot remember exactly. It has been such a long time, but it was rather a large amount.

Q. Is it approximately correct, about 1,900 tons?

A. Approximately perhaps, but I cannot tell you definitely.

Q. Might I ask you what was your yearly production in dyestuffs?

A. I believe about 300,000 kilograms; about.

Q. That is about 300 tons?

A. Yes.

Q. Do you know the ratio between the Polish dyestuffs production and the dyestuffs production of Farben in Germany; that is, the ratio in percentages approximately?

A. I believe, -- no, no I cannot remember.

Q. Then I shall not insist on this either.

In order to correlate the ratio of Polish dyestuffs production with the entire Polish chemical production, I wanted to ask you for information about the largest chemical industry in Poland. Was the nitrogen industry larger than the dyestuffs industry?

A. I do not know that, exactly. The nitrogen industry was rather important. The President himself instituted this industry at that time. It was a very large factory.

Q. Was the Wosicze in Horzow?

A. I don't know the name, but it was not far from Katowice. There a large nitrogen plant was located.

Q. In Horzow?

A. Yes. That is correct. Howzow.

Q. There was also the soap industry, apart from the chemical industry?

A. Yes, in Tomaszow there was a large plant.

Q. The rubber industry was also a part of the chemical industry?

A. Yes, but I do not know the details.

MR. SPEECHER: I must object to these questions as being beyond the scope of the affidavit, and beyond the scope of the examination-in-chief.

THE PRESIDENT: The Tribunal would consider the cross-examination

beyond the scope of the examination-in-chief and the affidavit, unless counsel for the defendant can point out and call to our attention some part of the affidavit to which he thinks the cross-examination relates.

Q. Mr. President, with these questions I wanted to correlate the dye industry in Poland with the chemical industry in Poland under the following aspects: under paragraph 97 the indictment charges that the three most important chemical firms are Boruta, Winnical and Wola. Under paragraph 100 of the Indictment it is stated that the entire Polish chemical industry was made a part of Fraben's industry and with these questions I merely wanted to illustrate that this is not correct since the dyestuff industry is only a part of the chemical industry and very small part.

THE PRESIDENT: That might be very proper for counsel to develop as a matter of defense although as an allegation of the indictment, the burden is on the prosecution rather than the defendant to establish the facts. What we are here concerned is the question of whether or not there is contained in this affidavit any statement of fact concerning which you are now seeking to cross examine him. Your cross examination must be limited to the affidavit and to the supplemental testimony given by the witness today. You perhaps are more familiar than we are with the details of this affidavit but our rather hurried examination of it at this time leads us to the conclusion that your question does not relate to the cross examination of the witness or to any testimony that he has given to the Tribunal.

The objection will be sustained.

BY DR. VON KELLER:

Q. Witness, then I would like to ask you for the size of your enterprise. An enterprise of which you say that it was always increasing and producing evermore. That's on page 1 of your affidavit. May I ask you what was the capital that you invested?

A. Operation capital?

Q. Yes, please.

A. The entire plant was about — the operation capital was about one million Zlotys which corresponds to one million Swiss Francs which was the same at the time. One zloty corresponded to one Swiss Franc.

Q. How many workers did you employ?

A. At that time about 200.

Q. Were these workers employed in the yeast and dextrose factory or in agriculture?

A. No, that was a separate enterprise which belonged to me alone. The other factories belonged to my family. I was a partner. But this one was completely separate under my direction.

Q. Did your factory have water connections?

A. Yes.

Q. I mean for transportation not for consumption in the plant.

A. No. There was no river there.

Q. Did your factory have any railroad connection?

A. No.

Q. What was the distance of your plant from the railroad?

A. About 12 kilometers.

MR. SPEECHER: Again I do not see any purpose I must object to the answerer as going beyond the scope of cross examination.

THE PRESIDENT: Well, that is quite remote from anything we presently see in the affidavit. As to what counsel for the defense concludes as to the importance of transportation, I can't see. But we will overrule the objection in the hope that he does bring it within the purview of the affidavit. If not, we shall have to control the cross examination.

BY DR. VON KELLER:

Q. Mr. Witness, I now want to touch another point in your affidavit you deal with the subject of the strong competition.

THE PRESIDENT: Counsel, you will help us very much if as you bring up the subjects of the affidavit which you desire to cross examine about, if you will direct our attention to the part of the affidavit. You are not obligated to do that but it would be an accommodation to us if you could tell us the part of the affidavit with regard to what you are directing your enquiry.

BY DR. VOM KELLER:

Q. The place which I refer to, Mr. President, is in the German on the first page of the affidavit. It's the same page in English. Page 1, where the very vigorous competition is referred to. Mr. Witness, was not the basis for your production the tariff which Poland imposed on dyes and was this not a strong protection for your products?

A. Before when the Zloty was devaluated we had no protection but nevertheless Polish industry could, despite large competition survive. Later when the Government understood the significance of Polish chemical industry they wanted to help us so that we might increase our production. They developed the industry and established tariffs but we were able to work without the tariff. It's true that later helped us.

Q. May I ask you: Is it correct that this duty, including the handling just amounted to about 10 Zlotys for each kilogram of dyestuff?

A. I don't remember. I don't believe it was that high but it was a certain amount. I couldn't tell you precisely.

Q. Do you know that the Polish tariff on dyestuff was the highest in Europe?

A. I don't know that.

Q. About competition I should like to ask you further is it true that in 1932 you, together with Boruta concluded a contract with the so-called "Tri-partite Cartel" about prices and quotas within Poland?

A. Yes. We got together in order to maintain certain prices because competition pushed our prices down. That's why we regulated certain materials. The Government didn't permit us, of course, to exploit the market. It was only sufficient for us to exist and that's all.

Q. Was the contract so favorable that in 1934 you concluded a new agreement for nine years to regulate the market?

A. The term wasn't mentioned. It was an agreement which could be re-called by anybody who gave three months notice. But it wasn't a fixed term.

Q. But quotas for it had already been established until --

A. No, no. That was —

THE PRESIDENT: Just a moment. It's necessary for the Tribunal to warn the witness and counsel for the defense that you are imposing too heavy a burden on the translation staff. Please talk more slowly and pause between the questions and answers until the translation staff has an opportunity to keep current. Thank you.

BY DR. VON MÜLLER:

Q In this agreement which you have just now termed as an "agreement" did this already contain quotas up to the year, that is, for your firm and for Beruta and in which you were to participate with 32.5%?

A Yes, the percentage is about correct. It was about one-third of the Polish concept for Beruta and for Wola.

Q Witness, in order not to tax the patience of the Tribunal with this cross examination I want to come to another question now. I wanted to ask you: Didn't this agreement quiet and calm the competition and remove competition almost entirely from some fields?

A Competition was still very strong and Farben always pushed us -- the Polish firms -- out of the market.

Q But you had established fixed quotas, hadn't you, by this agreement?

A Yes.

Q And Farben didn't interfere there, did they?

A No, if one did not fill the requirements established by the quota one was to be rejected.

Q But by this agreement was also provided what one should do if the Polish factory didn't meet their requirements under the quota. A certain payment had to be made then.

THE PRESIDENT: Counsel, as the Tribunal remembers the testimony of this witness he only mentioned that agreement in connection with a meeting at which he met the defendant von Schnitzler. We doubt very much whether that evidence that has just been introduced really fits into the picture of the testimony of the witness. In any event we do not consider it to be proper cross examination. We think you ought to go to another subject.

BY DR. VON MÜLLER:

Q I come to another subject. Now, Mr. Witness, on page 2 of your affidavit in the German, that's on page 1 of the English, you

the damages you experienced during the war. May I ask you — and this question goes in order to establish your knowledge of such damages from your own experience — May I ask you when did you leave Wola?

A Immediately after the war broke out.

Q Did you take the cash along with you?

A Cash — I took a certain amount of cash that I had free. But when we left at that time — when bombs are coming down how could one take everything away.

Q But your books were taken to Warsaw with you?

A Yes, but I turned them over to the Director Schwab.

Q Yes, I know. Did they shut down production when you had to leave Wola?

A Yes, immediately.

Q Do you know what happened between the time you left and the first visit that Mr. Schwab and Schoener paid to Wola?

A No, I don't know that.

Q I should now like to put a few summarizing questions to find out whether you have knowledge of any details. I want to find out from you whether and when certain damages resulted in your plants. You spoke about artillery damages, especially in Wola.

A I said that the war was going on and that we left, so to speak, under the impression of combat. We were surrounded by fire, but the plants were not destroyed by artillery fire.

Q Do you know, witness, that after war-like action a combat fire resulted in Wola?

A Only a wooden barn burned down which contained nothing of importance.

Q The population penetrated into your buildings and removed materials which were later found in farmer's houses?

A I don't know that. I only made statements about the factories and the houses. The store in Lodz and the store-room in

Warsaw which confirmed the numbers which I have just stated, about 30 thousand kilograms in Warsaw were requisitioned by Farben by Fuldo, and then later on again, the figures that I have mentioned, 50%, were turned over in Barwanil where Oberhauser was in charge of it and then about 100 thousand kilograms of raw materials and 50 thousand kilograms of dyestuffs were transported away to Wola and also to Lodz.

Q This, I am sorry to say, does not answer my question. I should like to put a few pictures to you which were taken on the day of the first visit of Mr. Schwab and Schoener. They are certified by an affidavit of Mr. Schwab, and show the condition of the factory as the two gentlemen found it on 20 October.

THE PRESIDENT: Permit counsel for the prosecution to see the proposed exhibit before you pass it to the witness. (exhibits are shown to prosecution) The documents may be passed to the witness. Ask your question.

BY DR. VON KELLER:

Q Mr. Witness, do you recognize the photographs of your Wola factory in these photographs?

A Some I do recognize but not all. But I do believe I recognize this one. One of them, at least, I recognize.

Q Is it correct to say that this plant was damaged by more than just one fire in a barn?

A After the Germans left Poland I was in Wola.

Q Witness, please excuse me, I am trying to make my questions so that you can either answer "yes" or "no", if possible, and I should be grateful to you if I could conduct my cross examination in that way.

MR. SPRINGER: I will object to the question.

THE PRESIDENT: There's no question now before the Tribunal. Counsel, reform your question and, then Mr. Witness, please, don't answer until the prosecution has had an opportunity to make an objection.

BY DR. VON KELLER:

Q Witness, was not this factory destroyed by much more than a mere fire in a barn?

A May I answer?

Q Yes, please.

A The fire in the wooden barn was already reported to me. Then there was a small destruction in the sulphur dyes plant which was also damaged but not very much damage resulted there. Dr. Szeroms and the burgomaster told me that the sulphurdye plant was only damaged slightly on the roof and one wall. The store rooms were untouched and all other machines and the boiler house. All the rest remained standing. It was only superficially damaged.

Q May I ask you, did you make these findings yourself?

A I wasn't there during the war.

Q Thank you very much. May I offer these photographs as Exhibit No. 1 for identification? It's Exhibit Schnitzler No. 1.

THE PRESIDENT: The Tribunal would suggest to counsel that the witness had identified only one of what appeared to be several photographs as being a picture of some of his property. On the state of the record the Tribunal will be unable to determine as to which photo the witness referred unless you offer them separately and ascertain from him and then have the exhibit marked so that we may know what he is talking about. As to the admission of the photographs generally that's another matter that may depend upon the certificate which you have attached to it and with which we are not familiar. Has the prosecution any objection to the introduction of the photographs?

MR. SPRECHER: Under the present state of the record, yes, we do have. I don't think this witness, who has testified he wasn't there personally, is in position to confirm. It seems to me it's part of the defense's case and it's improper but we don't want to object because the witness said what he had heard about the facts.

THE PRESIDENT: The only showing, as it stands at present, is perhaps one of the photos, and, we do not know which one, would be a proper part of this cross examination. If you wish to go with the witness informally and off the record and ascertain which photograph he identified then you may have it marked and introduced as part of your cross examination. The other photographs and the certificates would be probably a matter of defense because he disclaims any knowledge of it.

DR. VON KELLER: May I identify the photographs with the numbers 1, 2, 3 and 4, and submit them to the witness and ask him to state which he recognizes as pictures of his plants?

THE PRESIDENT: That is entirely correct and proper and you had perhaps better identify it as Exhibit 1, 2, and 3 and 4 of your client, so that we will not have them confused with other exhibits that may come in evidence, and then whether you offer them or not is up to you.

DR. VON KELLER: I want to offer all four documents as one exhibit.

MR. SPRECHER: Mr. President, could I suggest since the Schnitzler affidavit covers all four that they be called Schnitzler I and then give them the sub designations A, B, C and D?

THE PRESIDENT: That is very agreeable. We should try to keep the record so that we will know what the witness is talking about.

DR. VON KELLER: I identify these photographs as A, B, C and D.

THE PRESIDENT: Let the Tribunal suggest that you identify the whole of it as Exhibit I of the defendant Von Schnitzler and then we will have the record straight.

DR. VON KELLER: I identify it as Exhibit I for Schnitzler.

THE PRESIDENT: All right, now you may pass the exhibit to the witness and ascertain, if you care to do so, which photograph he identifies as that of his building.

BY DR. VON KELLER:

Q. Mr. Witness, may I ask you which one of the four photographs which are identified as Schnitzler I, A, B, C, and D, you recognize as your plant in Tola?

A. I know this one. The factory consisted of two parts. There was a street going right through the middle of the plant and one side there was the main building on the other side there were the houses.

THE PRESIDENT: Mr. Witness, will you please tell us what letter the one you are saying you know is correct, bears, whether it be A, B, C, or D?

WITNESS: That is B.

THE PRESIDENT: Very well, that is his answer. Now counsel, perhaps you had better retire back to the stand and take the pictures with you if you want them.

BY DR. VON KELLER:

Q. Witness, do you recognize the photographs, Schnitzler I, A C and D, as pictures which do not represent your factory?

A. I don't know. I can't remember.

DR. VON KELLER: Thank you very much.

May I ask you again to submit this one photograph for identification since the witness did recognize one picture and in the case of the other three stated he did not know?

THE PRESIDENT: The photograph identified by the witness as Von Schnitzler Exhibit I-A, is admitted in evidence and may be passed to the Tribunal for inspection if he wishes us to see it. I am sorry, it is I-b instead of I-A.

WITNESS: May I make a statement, please?

THE PRESIDENT: Yes, do, please go ahead.

WITNESS: What I just recognized is the place where the barn was and where the fire broke out.

THE PRESIDENT: Now, so that we may have no misunderstanding the Tribunal is ruling that the remaining part of your exhibit that has not been identified by this witness is not proper cross examination but you may use your judgment as to whether or not you rely on the affidavit as identifying the photographs and offer them as a part of your defense at the proper times. Does counsel understand our ruling?

DR. VON KELLER: In my case in chief I may refer to the other three photographs.

THE PRESIDENT: Very well.

BY DR. VON KELLER:

Q. Witness, may I refer once more to that part of your affidavit in which you say that you experienced damages because of Farben's action.

When you said that, did you mean those acts which the two trustees, Schwab and Schoener undertook in regard to your property?

A. I don't understand. Do I make those two gentlemen responsible privately? They were only agents. They acted for Farben as they were ordered.

Q. May I ask you, Mr. Witness, how do you know that these two gentlemen were officials and that they acted on behalf of Farben?

A. Because they showed me a document and because they later confiscated my store room in Warsaw and turned them over to Farben representatives who sold them for Farben and I know they did sell it because my customers later told me: "We bought your goods from the representatives of Farben in Warsaw, Bruno Fuldo, and we paid him for these goods."

Q. I don't wish to interrupt you, but I should like to ask you - the documents that you were shown, did they originate from Farben or from some official German agency?

A. I can't remember exactly because so many years have passed. I did save the document but later on I lost it together with all my other property but I was of the impression that it was an I G Farben document because the machines in Wola had a stencil on their cases which said: "Property of Farben." My foreman told me that later.

Q. But you do say that the two gentlemen acted as officials, is that right?

A. Yes, they were directors of Farben.

Q. I mean as officials from some agency?

A. I considered them officials of Farben.

Q. Do you know that these two gentlemen, Schwab and Schoener, were appointed by the Chief of the Civilian Administration first?

A. I don't know that.

Q. Do you know that these two gentlemen were confirmed by the officer of the Governor General and acted on his behalf?

A. I don't know. I did not receive any reports.

Q. Do you know the institution of a so-called disbursement office, that is an agency for instance like a bank, which received payment, but which only keeps books for some other account?

A. I don't know that such an agency existed.

Q. Did you have any insight into the internal accounting machine between Fulde and the trustees, that is the German government?

A. They didn't show me this, they merely took things away from me and didn't give me any bills or receipts. I didn't even get those 500 zlotys a month, and they even deducted 150 zlotys for my own house, for my own rent.

Q. Do you know the regulation according to which the trustee had administered this property and was subordinate to these trustees?

A. It is true that certain trustees were a little more decent and actually did pay the 500 zlotys a month for one family but I only received not even 500 zlotys for two families, but they deducted 150 zlotys which I had to pay to a Farben representative for my own house so that I could live there.

Q. Witness, you have described that in your affidavit and already stated that once here, but the subject of my question was: Do you know the regulations according to which the Trustee had to administer this property?

A. No, but I know that others acted a little differently.

Q. Do you know the differences in the legal aspects between the two cases?

A. No, but I know the effects.

Q. Do you know, witness, that the trustee had certain strict limitations in their regulations which they had to stick to?

THE PRESIDENT: Counsel, it is quite apparent the witness has disclaimed any knowledge as to this and it doesn't appear to be necessary to pursue that any further. It is quite apparent he doesn't know anything about it.

BY DR. VON KELLER:

Q. Witness, on the last page of your affidavit, you enumerate three

pieces of equipment, that is a large high pressure boiler, Frederking system with chrun and cast-in internal heating, and an electric air pump for this Frederking boiler, with accessories, a high pressure steel coil, and other things.

A. These are other machines. The Beta Oxynaphtol Plant had certain enameled boilers or so called auto-plex, which also were evacuated and transported away. That is the Beta Oxynaphtol Plant.

Q. These three pieces of equipment mentioned by you were essential parts of the Beta Oxynaphtol Plant?

A. Yes, they were parts, but not essential parts of this plant.

Q. Witness, you stated previously that the trustee collected accounts receivable by you. Do you know that they also paid your debts?

A. I didn't have any debts. There were no mortgages. The small debts that I had were insignificant. I had an excess of assets.

Q. But you know that you had debts in the bank and notes to be paid?

A. Yes, these debts I did have, but I had an excess of assets.

Q. I now refer to the letter which you directed to the defendant Von Schnitzler from the Warsaw Ghetto. Is it correct, as I assume that you read this letter which Mr. Von Schnitzler directed to Herr Schwab in the meantime?

A. Yes.

Q. And also the reply of Schwab to Schnitzler, have you read that?

A. Yes, yes.

Q. During the time in which you lived in the Warsaw Ghetto, did you receive any letters from Mr. Schwab?

A. No.

Q. Didn't he write you that he wanted a confirmation of the eldermen of the Jews according to which you have no further property, and that, therefore, you needed some sort of financial aid?

A. I received that letter and sent the documents which he requested,

but that was not in the Ghetto, that was still in the private residence.

Q.. Did you send a confirmation of the eldersmen of the Jewish Council from Warsaw ?

A. I believe not. I can't remember but I believe not. I only sent these documents which he refers to in the letter but that was before I moved to the Ghetto.

Q. But I want to clarify this. You didn't receive any letters in the Ghetto from Mr. Schwab?

A. Besides this question about the papers which were to make him tax exempt, I did not receive anything from Schwab, but I cannot remember exactly. I believe not.

Q. Have I understood you correctly then, this document about the reduction of taxes which you read in part before, but you received it only when you were liberated in 1945?

A. The documents that you have in your hands just now were given to me by Lodz, by the Polish Government, captured documents, where they found this in this Zentral Barwanil.

Q. That is, after 1945?

A. Yes, this was in Barwanil among other documents.

Q. Since this letter from the Ghetto you didn't hear anything from Schwab until after the liberation?

A. No.

Q. Not even the request for a confirmation by the elder-men of the Jewish Council?

THE PRESIDENT: You may answer.

WITNESS:

A. About the request of the confirmation of the eldersmen of the Jewish Council I cannot remember, but I don't think that request came to me.

THE PRESIDENT: Very well how now through the cross examination are you counsel?

DR. VON KELLER: I believe, Mr. President, it will take a few

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more minutes, not very long, and if I may suggest perhaps I can conclude after the recess.

THE PRESIDENT: The Tribunal will rise for it's afternoon recess.

(A short recess was taken)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel, before you resume, the Tribunal has the feeling that you have very largely covered the field of cross examination so far as this affidavit is concerned. We do not mean to restrict you or limit you, but we do feel that this cross examination ought to be pretty promptly brought to a conclusion so far as your inquiry is concerned.

You may proceed.

Use your best judgment but try to help us conserve as much time as possible.

BY DR. VON KELIER:

Q: Your Honor, I hope to be able to conclude this cross examination with approximately five questions, subject, of course, to the witness answering them briefly.

Witness, in order to clarify the last subject we dealt with before the recess, do let me ask you this. Did you send to Mr. Schwab a certificate of the elders of the Jewish council, according to which you do not possess any income and must have financial assistance?

A: I cannot remember having sent away such a letter.

Q: Thank you very much.

And now, two questions which I want to put to you in order to clarify two subjects which we have already discussed.

Did the I.G. Farben, with reference to the Wola factory - I am specifically referring to the factory - did they take that factory over?

A: Well, as far as I know, the plant had not come to a standstill, but a little production was still carried on. A few dye stuffs were produced after that. Naturally, these dye stuffs were sold and the cash went to the I.G.

Q: My question was, witness, did the I.G. actually take over this factory in their possession?

A: I can only say that they used the dye stuffs and materials for their own use and that they cashed in on the amounts due through their representatives on behalf of the I.G.

Q: Did you know the conditions under which the I.G., through an agency of the Government General, had rented the betaoxeynaphtol plant?

A: I don't know. All it said there was "Possession of I.G. Farben".

Q: In other words, you don't know whether it was only rented?

A: No.

Q: Let me once more touch upon the question of your correspondence from the ghetto. Were special security police regulations prevailing in that ghetto?

A: You mean whether one could receive or write letters? Is that what you mean?

Q: If I may specify my question, I mean, was there censorship of incoming and outgoing mail?

A: At the beginning, it was possible to write letters and to send them off, but that was only at the beginning. Later, it became much more difficult.

Q: Did you learn by way of conversations or through experience, that such letters were subject to censorship?

A: They probably were censored.

Q: Do you also know that every letter writer inside, as well as outside the ghetto, had to be very careful with his correspondence?

A: Naturally, one had to be.

Q: Do you know that there was great danger involved in

getting correspondence into the ghetto through other channels but those official channels which were censored?

A: I don't know that. I know that letters could be written at the beginning. Naturally, they were written carefully, but I am sure petitions regarding assistance could be written.

Q: Witness, I want to conclude this cross examination now. In an essential part of your affidavit you treat the cruel fate which you and your kind have suffered. The persecution of human beings because of racial, religious and political reasons as we have experienced them during these years will be one of the blackest marks in European history. I ask you to excuse this personal touch and I do want to express my deepest horror with respect to these terrible crimes. I want to assure you of my most sincere sympathy. I am convinced that I can say this on behalf of all the defendants and on behalf of all defense counsel active in this trial. But, as a defense counsel in this trial, I believe it to be my duty to put the following question to you. Is there any connection between the defendants in this dock here and the criminal extermination of Jews which you have described in your affidavit?

A: I didn't state any connection. I didn't want to indict these gentlemen with the second part of my affidavit. The first part concerned my possession which was taken away from me in this manner. Naturally, I cannot link the other persecution. That's a matter of course. That is not the guilt of these gentlemen of the I.G.

Q: Thank you. Mr. President, I have no further questions.
BY DR. DRISCHEL (Defense Counsel for defendant Ambros):

Q: I have only one question, Mr. President.

Witness, contrary to the statement you made in your affidavit at page 9 of the German text, you said this morning that a part

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of the machines and equipment which was taken away was sent
to Ludwigshafen or Hoechst. Why do you assume that these
were sent to Ludwigshafen?

A Because my chemists and workers told me so. Dr. Szeromski and brothers were the foremen and they told me that this equipment was sent to Ludwigshafen or Offenbach.

Q But you are not certain?

A Well, the people said that it was certain.

Q But, if I put to you.... Just one minute. But, if I put to you, witness, that no equipment was sent to Ludwigshafen, would you then admit that it is possible that the information you received was based upon error?

A Error, of course, is human, but I only repeat what I have been told by Dr. Szeromski who is a very honest and sincere man - an elderly man - and I am sure he didn't take that from thin air.

Q But he could have made an error?

A Well, of course.

Q Thank you. The others have certified thereto.

BY DR. HEINZELER: (Defense Counsel for defendant Wurster)

Q Witness, in your affidavit, you speak generally in a few passages about the gentlemen of the I. G. Let me ask you briefly, did you, at any time, make the acquaintance of Dr. Karl Wurster whom I represent here?

A Doctor what?

Q Dr. Karl Wurster.

A I cannot remember.

Q You have no hint therefore to believe that he, in any way, participated in the fact of your factory?

A I don't know that. I haven't heard anything about that.

Q Thank you. Mr. President, I have no further questions.

THE PRESIDENT: The Tribunal will accord the defense the privilege of further cross examination if it is desired.

Since it does not appear that any further cross examination is desired, has the prosecution any redirect?

MR. SPRECHER: No, Mr. President.

THE PRESIDENT: Then, Mr. Witness, you are excused from attendance and the Marshal will escort you from the box.

MR. SPRECHER: May it please the Tribunal. A number of affidavits have already been introduced in connection with this Count II and the spoliation case in general and quite a number more will be introduced in the balance of today and tomorrow, and the prosecution would appreciate it if the defense would indicate its desires with respect to the cross examination of particular affiants as soon as possible. Meanwhile, the prosecution will start to undertake means for bringing these witnesses here from foreign countries, particularly, but we would like to be able to stop the effort that that involves on the part of many people where these witnesses will not be required for cross examination. However, so that we cannot, in any way, possibly be charged with not having attempted to expedite the trial and to make these witnesses available, we wanted to make this statement.

THE PRESIDENT: The Tribunal, of course, cannot be advised as to the time that may be involved or the effort with respect to the bringing of these witnesses. If counsel for the prosecution does not have a definite understanding from the counsel for the defense, call it to our attention and we'll try to cooperate with all of you in reaching an understanding as to whether or not the witnesses are to be produced. You may do that within such reasonable time as you may think necessary in order to make your arrangements for the presence of non-presence of witnesses.

MR. SPRECHER: We do believe that we should try to bring these witnesses in as near as possible to the time the affidavits are being introduced because the matters are then fresh in the minds of all of us, and also we believe that should be for more orderly and, in the long run, a more just procedure here.

THE PRESIDENT: I think Dr. Boettcher has something to say.

DR. BOETTCHER: Your Honor, the statements on behalf of the defense, with respect to these affiants who are to be called for cross examination,

is already functioning very well after Dr. Mueller was approved as my assistant. We have tested this procedure for the last two day. I think the procedure where the prosecution, from time to time, gives us a list would further our decisions and I think that within a very few days we shall always be able to make our corresponding statements.

THE PRESIDENT: From the standpoint of the Tribunal, the best evidence that there is very fine cooperation between counsel, is the fact that we have heard nothing about it for some time.

MR. SPRECHER: With your Honors' permission, we will then proceed to the case concerning spoliation in Russia. The document books are Document Books 63 and 64. The charges are made under Section F of Count II of the Indictment, paragraph 114 and 118. The prosecution expects within an hour or on hour and a half to sustain all the facts alleged in this part of the Indictment.

May I ask you to take judicial notice of the decision of the International Military Tribunal concerning "The aggressive war against the Union of Soviet Socialist Republics" at page 213 of Volume I of the official documents of the International Military Tribunal.

I would only like to note that the International Military Tribunal decision points out that preparations for the attack on the USSR began as early as the late summer of 1940; that the attack was made without any declaration of war; and that the International Military Tribunal found that the plans for the economic spoliation of the USSR were prepared some time in advance of the 22nd of June 1941. That's at page 215.

Now, the first ten documents we shall offer refer to the policy of Germany toward Russia. Many of these documents were put in evidence before the International Military Tribunal. With your consent, I would like to follow our practice of this morning.

THE PRESIDENT: Very well.

MR. SPRECHER: Some time before the invasion of the Soviet Union on the 22nd of July 1941, a top secret directive was issued with respect

to the economic measures which were to be taken once the Soviet Union was invaded. The secret instructions were to be kept top secret until the day of mobilization and, thereafter, they were merely to be marked restricted. That that came to the attention, after the fact, in any event, of Farben will be shown particularly by a later document we shall introduce, which is a analysis of the economic possibilities of the Soviet Union by one Farben representative called De Haas, H-a-a-s, and he shows a very good understanding of the directives which I shall mention in the next few minutes. The objective, as shown by these documents, the objective of German policy was to reduce Russia to a country which would furnish raw materials, as needed, for Germany and particularly to get food and mineral oil out of occupied Russian territories. What was left over beyond that was of completely secondary interest, and the directives indicate that questions concerning how many Russians died because of this policy was of little concern to the Nazis and you will find references to that effect also in the International Military Tribunal decision. The German government, in economic matters in Russia, acted to a great extent through the German Wirtschaftsfuehrungsstab Ost, the Economic Wirtschaftsfuehrungs Staff East.

There were a number of other special agencies at work in order to accomplish the Nazi objectives there, but for our purposes that particular agency will come particularly into question.

If I may now proceed to start to mark the documents in, I may have one or two remarks to make in connection with the documents -- but not very many, Your Honors.

THE PRESIDENT: Very well.

MR. SPRECHER: The first document is NI-6365 which may go in as Prosecution Exhibit 1169. The document was issued before the invasion of Russia and it states that the whole economic policy is the immediate highest possible exploitation of the occupied territories in favor of Germany.

I would only like to remark, because of the connection of these defendants and of Farben to the Continental Oil Company, that even in this secret directive, if you look over at page 5, the whole mineral oil field was to be exploited by the Continental Oil Company.

The next document, NI-6375 may go in as Prosecution Exhibit 1170. If you would just note, on page 7, that the usual cynicism with respect to what happens to the vanquished is expressed: "Whether the occupied territories in the future may be permitted to have a life of their own is undecided. However, they remain parts of the Greater German living space."

The next document, NI-440 may be in as Prosecution Exhibit 1171. On page 12 of the English and page 9 of the German, could I only point out that for the duration of the war the requirements of war industry were to be the supreme law of all economic operations in the recently occupied territories; and that over on page 12 and 13, on pages 9 and 10 of the German, notice is given that one of the objects of exploitation is to place upon the back of Russia the entire German debt involved in the waging of war.

On page 14, at page 11 of the German: "Only the Germans located in the Ostland were to be settled there, and the elements to be Germanized may be treated better."

We merely mention this because we think that it was clear what was going on in Russia, and that this policy could not help but come to the attention of anyone who concerned himself with any desires to undertake economic undertakings in belligerently occupied Russia.

On page 19 of the English, page 15 of the German, you will note a reference which, in this Goering directive, was mentioned in the IMT, "The Urban population can receive only very slight quantities of food-stuffs. For the big cities nothing at all can be done for the time being. The consequences resulting therefrom are hard, but unavoidable."

The whole idea of exploitation, such as we have previously seen in Poland, can be found on page 21 of the English, page 17 of the German Item 4.

"To be left in the Occupied Eastern Territories are those machines which are needed there for the fulfilment of the military economic tasks assigned to the Occupied Eastern Territories within the framework of the military economy."

Over on page 23 of the English, 19 of the German, you will note a reference to something which turns out to be important later. Under "B": "Final adjustments of ownership are fundamentally excluded until the territories have been absorbed into the union of the Greater German Reich. Hence, in principle, only trustee administration is admissible. Trustee administration gives the trustee no right to later acquisition of a property."

Then you will note in the next paragraph following that petroleum was an exception, and again references to the fact that the Continental Oil Company was founded for the purpose of combining all German oil interests with relation to all foreign countries. And then on the next page, page 20

of the German, you will find that Goering, who was often committing himself to using private industry in order to accomplish his ends, states that the necessary expert knowledge of private industry was to be used rather than having certain government agencies work those plants which were useful to the German war machine, and that they should, therefore, be given the opportunity to derive adequate benefit from their activity.

There is some reference on the next page, 25, pages 20 and 21 of the German, to the monopoly companies which were to be formed during this interim stage for exploitation. May we pass to the next document, NI-11379, which may go in as Prosecution Exhibit 1172? Schlotterer, from the Ministry of Economics, authenticates the document just referred to, and then makes certain statements about recalling the authenticity of the document. And over on page 32 of the English, page 27 of the German, he makes the statement that Goering had learned from Hitler that all great civilizations had flourished through the use of slave labor, and that the practical application of this was that one must utilize the Russians as slaves.

The next document is NI-5732, which is Prosecution Exhibit 1173. I would like to point Your Honors attention to the last third of the page, of page 34 in the English. That is just at the break in the page of 29 and 30 of the German.

"The Reich Group Commerce have now offered to take over the selection of businessmen for these branches of economy according to the principles of private economy and within the framework of a company." And then there is further reference to these licensed eastern corporations which were to be set up. You will remember that a number of these defendants held positions in the Reich Group Industry or their branches, and this pseudo-private, pseudo-governmental set-up underneath the Reich Group Industry played their role with respect to the establishment of policy and the selection of personnel.

You will see more of that in a minute.

Over on page 35 of the English and 30 of the German you will note that his old question, which led to a certain amount of conflict between different groups who were interested in this exploitation of the Soviet Union, is paralleled to the same conflict which arose inside Poland, to wit: The combat veterans who might come back. Now, you will find there in the middle of the page the following statement by Goering: "The question of re-establishing private ownership in the Occupied Territories cannot be decided at this juncture, considering, among other things, the combat veteran. Industrialists who, in the interests of the war effort, offer their services now for the rebuilding of the eastern economy, may, however, be confident that they will receive preference later along with the war veteran."

The next document, NI-6373, may go in as Prosecution Exhibit 1174. It merely states that Goering works through the Economic Operation Staff or Economic Leadership Staff East in accomplishing the objectives of the exploitation and the economic management in the Occupied East.

The next document will require a little more time, I am afraid. That is NI-2996 which may go in as Prosecution Exhibit 1175. This is a letter from WIPO which Krueger, the Deputy Head of NW 7, Ilgnor's organization, sent out to all members of the Vorstand and the Commercial Committee. And Krueger notes that at the request of the Defendant Mann, "we beg to transmit to you this Situation Report of the Liaison Office East on Russia, concluded on the third of January 1942."

This Liaison Office East was a special Farben agency which had been set up to help coordinate matters, similar to Vermittlungsstelle W, or the Special Vermittlungsstelle W that was set up for Norway.

You will note, over on page 38 -- that is page 34 of the German, second paragraph: "Within the framework of the centralized organization, it must be pointed out as a new feature that police authority in the

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territories subject to civilian administration will be exercised exclusively by the Reichsfuehrer SS, Himmler. At the same time, the Reichsfuehrer has been appointed Reichskommissar for the Strengthening of Germanism in the occupied territories."

This is in De Haas's report to the entire Farben Vorstand and members of the Commercial Committee, that the police state with all its terror was to be applied in Russia. It is clear without further statement.

(Sprecher) You will notice further on the SS Division SA generals, have various different reports.

Now Dey Hass goes on in this Farben report to talk about the different kinds of operational costs and sponsorship companies, and over under operational companies, on page 39 of the English, and pages 34-35 of the German, you will note that Farben had, -- I beg your pardon, -- that should be under Group E, sponsorship companies, -- I will withdraw that also. The Continental Oil Company is under an operational company Group 2, and the next group, Group 3, contains five companies. The participation of Farben in these various groups, so far as capital is concerned, is shown below.

There was no participation by Farben, so far as I know, in one or two of them. We will come to those points in more detail later on.

Now the interest of these defendants in getting in on the ground floor, as we shall see later on, is perhaps indicated in the SeHa as report on page 40 of the English, and page 35 of the German.

De Haas points out at the top of the page first full paragraph:

"In connection with the activities of the companies for the east, it should be pointed out that an economic and colonial exploitation of the Eastern territories is not envisaged in the long run."

What the "short" run is, I think is fairly clear from some other references we will shortly make. Quoting again:

"Therefore the companies for the East, the practical function of which is at present to regulate the relationship to the German economy, must be considered as mere expediency institutions which later on, at the proper moment after the end of the war, will be superseded in some way or other by private enter-

priso. In any case the basic tendency aims at increasing already the responsibility of the plant managers who at present are still employed as trustees, and at creating the basis for independent enterprise through a participation in profits, which can be considered as a preliminary step to reprivatization."

(NOTE: Mr. Sprecher said, "economic territories" the copy reads "eastern territoried")

We submit that has a very direct relation to the rush to appoint trustees, and in other ways to furnish exports which we shall come to in a minute.

You will note a little further down, that the reference is made about the policy in Russia: "This does not mean that big firms like Farben will be excluded from participation in the reconstruction in the East. On the contrary it is realized that the initiative of big firms of this kind will have to be called on to a very considerable extent."

That De Haas and all of these people received copies of this, knew about the objective of having the war paid for by the exploitation of the eastern territories, appears over on Page 41 of the English, and page 36 of the German. You will find that in the middle of the page, the first paragraph:

"This intention of the Reich to take to take in all intermediate profits originated with the plan to use the Eastern territories for the liquidation of the German war debt."

Down at the bottom of the page, page 37 of the German, it is pointed out that in connection with the existing possibilities for participation:

"The principle that the East is to be considered as a purely agricultural and raw material area should be mentioned once more."

Now, of course, all of this is talking about a program which is just not permitted under International law. The vanquished may not be treated in this way with respect to their economy, with respect to their property.

On the top of page 42 of the English, and page 37 of the German, you will note that there reference is made to the "removal of all useful, agricultural machinery, as well as ruthless evacuation of the industrial cities of the south." - "a ruthless evacuation of the industrial cities of the South".

Then at the break in the page, where it says, - quoting page 7 of the original, that is still page 37 of the German, -

"At the moment this pass-word seems all the more advisable," the pass-word being to wait,

"as in the field of organization certain disagreements still have to be overcome".

Then going on down:

"On the other hand, care must be taken that information be gathered in time if the general situation makes I.G. activity seem advisable."

We shall shortly show what initiative and activities were taken by certain of these defendants.

We may then pass to the next document, NI-1334 which may go in as Prosecution's Exhibit 1176. Now we are jumping back; in point of view of time, your Honors. We brought in the DeHaas report because it showed certain knowledge and certain information as of January 1942, but now we are going back to the time very shortly after the events, namely, the invasion of the Soviet Union on the 22nd of June, 1941.

This first document is discussion in Ilgnor's organization

NI 7 on the 7th of July, 1941. This is within two weeks after the invasion, and Ilgner is present as Chairman, and the WIPO -- in discussion underneath the WIPO, Ilgner reports in detail on the Russia conference which took place at the Reich Ministry of Economics, and mentioned in this connection that the defendant von der Heyde, was one of the persons instructed to draft a list in connection with nominations for appointments in Russia. These nominations were discussed in some detail.

This, by the way, is quite sometime before many of these directors I mentioned before were concerned how exploitation was to be administered in detail in the east, but Farben was getting ready for whatever might come.

Note that Ilgner decides that all questions relating to Russia shall be dealt with in a certain way, in the next paragraph, and then Ilgner makes certain instructions, in order to see that suggestions for the reorganization of Russian enterprises under German leadership, "on the pattern of Aussig-Falkenau" are accomplished.

You will note that the office of the Commercial Committee has a representative in that little group to carry out these investigations.

The next document, NI 8-77, may go in as Prosecution's Exhibit 1177. This is excerpts from the minutes of the Vorstand meeting, 26th meeting of the Vorstand, on the 10th of July 1941. That is just three days after that Ilgner meeting we just mentioned, and all of the Vorstand members are present. Brueggemann and Jacobi, except that three of them are only present in the afternoon, to wit: Brueggemann, Jacobi and ter Moor.

The excerpts we have here notes that Ilgner reported on the two meetings at the Reich Ministry of Economics in which the defendant Oster, Buetefisch and Ambros were present, as

well as Ilgnor, and he notes that there are discussions as to what Farben people, who were in the Wehrmacht might be made available for certain tasks in connection with the exploitation of the Chemical industry in the former Soviet Union, -- "former Soviet Union".

"The different plants to be taken care of, as far as possible, by the competent Syndicate, and the I.G. will be appointed as Trustee for rubber."

This is less than a month after the invasion of the Soviet Union.

"for mineral oils it will be the Continental", meaning the Continental Oil Company.

"for detergents a small consortium of interested firms, whilst for the remainder of the chemical industry the following eight firms are to take over jointly the duties of trusteeship."

and then some of the firms are mentioned. It is very interesting in our opinion, that this happened so soon, and that the Vorstand is so early advised of the detailed policy concerning the means of exploitation in the Soviet Union.

Over on the next page, 48 of the English, bottom of page 41 of the German, in connection with the whole manner of making the plants and the nomination of business managers and so; later, the last sentence:

"In principle the I.G. declares it is ready to give assistance."

That was a declaration of the entire Vorstand of I.G. Farben.

I do not want to anticipate all proof with respect to Francolor which we attempt to put in their mouth. I only want to point out in the next excerpt appearing just below, a report concerning success in spoliation in France.

"The I.G. will take over 51 per cent in return for the

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ceding of I.G. shares, reckoned at a rate of 160 per cent".

Now we submit that the accomplishment of the I.G. objective in France, come at a time when I.G. was already talking about the possibilities in the Soviet Union.

The next document, NI-4446, is a very interesting document, in that it starts quite an interesting series of documents. It may go in as prosecution's exhibit 1176.

THE PRESIDENT: '78.

MR. SPRECHER: I beg your pardon, Your Honor, yes, 1178.

This is a letter from the defendant Ambros to the defendant Krauch and it's dated 28 June 1941. That's six days after the invasion of Soviet Russia. Ambros says:

"Pursuant to my letter of 27 June I am sending to you enclosed a list of the gentlemen who are suitable for an assignment in Russia, to take over plants there for the production of synthetic rubber."

And at the bottom of the page you will note that Ambros suggests that a small commission pay a quick visit to the most important and appropriate plant and he suggests that he participate in this trip along with a couple of experts and that the object of such a trip would be to make an immediate decision as regards the allocation of the individual plants. The letter ends up:

"I trust that with those preparations made the assurance is given that the Russian Buna industry can be placed into our service quickly." and quote.

I must mention again, your Honors, the complete cynicism, the fact that rubber is needed for any purpose even though it's an occupation. It's obvious that all the Russian economy is expected to work for the German military machine in order to help further to inflict injuries upon the contending Russian Army in the field regardless of what that meant to the local population.

Now, none of the plants that are listed in the enclosure had been conquered as of this time. In fact, most of them were never conquered but the motive is quite interesting at the early time.

The next document WI-4969 may go in as Prosecution Exhibit 1179. This is rather interesting -- pardon me.

DR. DRISCHEL: Your Honor, the last remark -- I repeat my name. Drischel counsel for Dr. Ambros. The last remark of Dr. Sprecher's causes me to make a statement which perhaps will tend to expedite this proceeding. Mr. Sprecher, himself, said that none of these facts actually were executed and he said that the motive was interesting. I wanted to

announced here that I shall object to all of these documents with respect to Count II of the indictment, spoliation and plunder, because they cannot be considered relevant. Naturally, I can only give you a basis for that statement when the prosecution has already offered their entire documents with respect to that count. I just wanted to notify the Tribunal of my intention to make a statement and I should like to reserve the right to make the statement when the prosecution continues.

THE PRESIDENT: That right will be granted.

MR. SPRECHER: This Exhibit, prosecution Exhibit 1179 shows certain deficiencies on the part of the defendant Ambros. He proceeds to start to issue circular letters concerning what's to be done in Russia for this Buna commission and indicates ways in which the participants may perhaps themselves be learning the Russian language and learning about further Buna operations in Schkopau. You will note that this is before the Vorstand meeting of 10 July.

The next document, NI-6737 may go in as Prosecution Exhibit 1180. This is another one of Ambros's circular letters. You will note that in the middle of the page:

"It is intended to organize a new corporation which will be registered in Berlin under the name of Russka Betriebs G.m.b.H. which corporation is to be controlled by Farben."

This is less than a month after the invasion.

Now, the next Document NI-6697 may go in as Prosecution Exhibit 1181, with your permission. It's another Ambros communication. This time to the Reich Minister of Economics. A few months have passed now and the rubber plants haven't yet been overrun but Ambros states that the German army is gradually progressing and the whole question of taking over the Buna plants becomes more pressing.

The next document NI-4975 may go in as Prosecution Exhibit 1182. This is a secret draft of a letter which the Reich Ministry was to send to Farben and it's followed by the secret draft of a letter which Farben

was to send to the Reich Ministry of Economics in connection with the old trusted agreement. The Farben plants were acquiring and getting these plants underneath their control and were running into certain obstacles which apparently had not occurred to the defendant Ambros at the time he made some of his earlier statements and further negotiations take place. It's already a discussion of leasing certain plants in those secret documents.

The next document NI-4972 may go in as Prosecution Exhibit 1183. This is a confidential draft, a secret draft of a trust agreement between the German Reich and Farben and this proposes a company in between the synthetic rubber company East. It's Exhibit 1183. The installations under the proposed draft are to be transferred to the monopoly corporation and, of course, the operation was to be done according to the requirements of the Reich. I.G. was to furnish the proper management and to place its technical skill at the services of the Government. It's discussed as to what's going to happen as to what "know-how" the Russians may have and what will be done as regards to the production by any Soviet plants which is to be sent back to Germany itself. That's page 61 of the German. You will note that I.G. is entitled to receive preference in obtaining any intermediate products. Thus, Farben took a very serious view of the possibility that spoliation in Russia as indicated by the next document, NI-6735, which may go in as Prosecution Exhibit 1184. It's a letter by Farben signed by the defendant von Knieriem which is addressed to the Reich Minister of Economics and it indicates that the Farben lawyers were taking a certain amount of time to figure out just how these relations should be adjusted. Farben is particularly interested in their having too much interference between non-Farben representatives who might be in the governing body of the synthetic rubber company East, and of course, that Farben should not suffer any loss by virtue of its corporation. Over on page 69 of the English, page 67 at the German in the middle of the page. Farben wants to adhere to certain of its drafts:

"To maintain the principle that we are to suffer no disadvantage through our co-operation."

It's a very positive-like attitude. The only thing is, it was dealing with somebody else's property. Copies of that letter went to the defendants ter Meer and Ambros.

The next document NI-9474 may go in as Prosecution Exhibit 1185. You will notice it's mentioned in the first paragraph that the Reich as agreeable to Farbon having a majority on the supervisory board of this new corporation. This is a file memo incidentally, which was held in the Reich Ministry of Economics on this same problem. Copies again went to the defendants ter Meer and von Knieriem, and Ambros. That concludes that Document Book and it's a convenient time to break off.

THE PRESIDENT: Is there anything you wish to say about tomorrow's program?

MR. SPEECHER: Yes, if you please. Mr. President, the concluding book on the spoliation plans and spoliation in Russia is Document Book 64. We will then proceed with Document Book 65, which relates to Norway. Then we will next proceed to Document Book 61 and 62 which cover the spoliation case concerning France with respect to Alsace-Lorraine. I might also say that tomorrow morning we intend to begin with two witnesses, the witnesses Gorr and Gross and by reference to the new memorandum, the second memorandum concerning witnesses. Your Honors will note what books to bring in and the same goes for defense counsel. I am also asked to request that you bring in Document Book 51 because there will be some reference to that during one of the presentations. Now, I don't know whether we will get further than I have indicated but if we do it will be the France spoliation case concerning Francolor, contained in Document Books 57 and 58. I have no other further, your Honors.

THE PRESIDENT: The Tribunal will arise until 9:30 tomorrow morning.

(A recess was taken until 0930, 24 October 1947)

Official Transcript of the American Military Tribunal in the matter of the United States of America, against Carl Krauch, et al, defendants, sitting at Nurnberg, Germany, on 24 October, 1947, 0930-1630, Justice Shake presiding.

THE MARSHAL: Persons in the courtroom will please find their seats,

The Honorable, the Judges of Military Tribunal VI.

Military Tribunal VI is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshal, are the defendants present?

THE MARSHAL: May it please your Honors, all of the defendants are present in the courtroom with the exception of the defendant Hoerlein, who is absent due to illness.

THE PRESIDENT: Are there any preliminary announcements from the prosecution.

MR. SPRECHER: No, Mr. President.

THE PRESIDENT: Do the defendants have anything to say before we proceed? Any announcements?

Then the prosecution may continue with its evidence.

MR. SPRECHER: With your permission, we would like to call the witness, Guenther Gorr, at this time.

THE PRESIDENT: The Marshal may bring in the witness.

MR. SPRECHER: The document books are Document books 6 and 36, your Honor. Did you bring them with you?

THE PRESIDENT: I think we have them. You may give us the page numbers while we are waiting.

MR. SPRECHER: The first affidavit is the Exhibit 141, which is NI 7611; that is in Document book 6, English page 32, German page 46, and the second affidavit by this witness is Exhibit 648, NI 7618, Book 36, English page 54, German page 66.

THE PRESIDENT: The witness will remain standing.

GUNTHER GORR, a witness, took the stand and testified

as follows:

BY THE PRESIDENT:

Q. What is your name?

A. Guenther Gorr.

Q. Will you repeat this oath after me:

I swear by God, the Almighty, the Omniscient, that I will speak the truth, the pure truth and will withhold and add nothing.

(The witness repeated the oath)

THE PRESIDENT: You may be seated. The prosecution may proceed.

DIRECT EXAMINATION

GUENTHER GORR

BY MR. SPEECHER:

Q. Witness, will you state your full name once more for the record?

A. Guenther Gorr.

Q. And what is your present address?

A. Berlin-Charlottenburg, 28 Preussenschallee 2.

Q. And what is your present employment?

A. I am the representative of the Soviet Stock Corporation for rubber in Berlin, and also in the lands of Brandenburg and Mecklenburg.

Q. Witness, what was your address just before the German collapse in 1945?

A. Berlin-Charlottenburg, 28 Preussenschallee.

Q. And in your affidavits you state what your positions were in Farben. Now we are only concerned here with two affidavits that you have given the prosecution, which are exhibits 141 and 648, otherwise given as Documents numbered NI 7611 and NI 7618. Do you have these affidavits of yours before you?

A. Yes.

Q. At the time you made these affidavits were you advised concerning the obligation of telling the truth and the penalty for making a false statement?

A. I was told that I was making my testimony under oath, but no punishments were told me that might be meted out to me if I told any lies.

Q. Did you notice at the top of each affidavit that it states that you may be liable to punishment for making a false statement?

A. Yes.

Q. With respect to either of these affidavits, do you at the present time have any additions or corrections which you think it necessary to make?

A. No.

MR. SPRECHER: No further questions.

THE PRESIDENT: The defense may cross examine.

CROSS EXAMINATION

GUNTHER GORR

BY DR. BERNDT, counsel for the defendant, Dr. ter Meer:

Q. Dr. Gorr, I want to deal with your first affidavit, NI 7611. Do you have that?

A. Yes.

Q. Would you please turn to page 3 - oh, excuse me, it is page 4?

A. Yes.

Q. In this affidavit you have so ably described the Vermittlungsstelle that I do not want to ask any questions, only a few supplementary points to No. 5. May I ask you please to consider Point 5, subsections (c) and (d), where you speak about development work? Do you have that?

A. Yes.

Q. May I ask you if this development work were extensive already before the war?

A. The size of the development works of Farben, so far as it had anything to do with Vermittlungsstelle W, was considerable, but it was not very extensive. It was about of the size that might naturally be expected from a corporation such as was Farben.

Q. Your answer is a little indefinite. Couldn't you define it a little more?

A. I cannot give you any figures.

Q. Can you please tell me what this development work was concerned with?

A. Principally they dealt with chemical problems which were connected within the civilian interests of Farben or in close connection therewith.

Q. Under (c) you say, "development work which the authorities demanded from Farben". May I ask you, please, what authorities, asked for such development work?

A. The Army Ordnance office had so-called testing agencies, which were called Testing Agencies 1, 2 and 3. They had the function to promote the development of weapons, and a part of this agency had to do with Vermittlungsstelle-W, and with our plants, and directed the work.

Q. If these agencies now turned to Vermittlungsstelle-W, and also to various plants, didn't it happen as a result that the orders were duplicated; that is to say, a duplication of the work resulted?

A. The danger that such orders might arrive at various places in the Farben plants did exist. As I already expressed in my affidavit, it was the function of Vermittlungsstelle-W to avoid such duplicity of work, and for that reason the army agencies were asked to request such work by way of Vermittlungsstelle-W from the experts of Farben.

Q. Very well. And later you mention the question of patents. That is under letter (f). "When Contracts were negotiated with foreign countries, the experience and know-how had to be exchanged. For that purpose, the permission of the authorities had to be asked" and as far as I know, the permission of Military authorities and also the Reich Ministry of Economic Affairs; is that correct?

A. Yes.

Q. Can you tell me how these authorities behaved when they gave such permissions? Were they magnanimous or were they narrow-minded as a rule?

A. As a rule, the civilian authorities were magnanimous; also the army authorities unless they were concerned with special materials that were of great significance for defense.

Q. Very well. And later you mention the question of patents. That is under letter (f). "When Contracts were negotiated with foreign countries, the experience and know-how had to be exchanged. For that purpose, the permission of the authorities had to be asked" and as far as I know, the permission of Military authorities and also the Reich Ministry of Economic Affairs; is that correct?

A. Yes.

Q. Can you tell me how these authorities behaved when they gave such permissions? Were they magnanimous or were they narrow-minded as a rule?

A. As a rule, the civilian authorities were magnanimous; also the army authorities unless they were concerned with special materials that were of great significance for defense.

Q. If I understand you correctly then, the authorities were very broad-minded in giving such permission?

A. They were magnanimous because they were influenced by Vermittlungsstelle-W in that direction.

Q. Under the next letter, (g), you talk of the central direction of the so-called mobilization plans. Is it correct if we have distinguished so far between the plans for the so-called armament plants and those that we call KLM strategically important war plants; is such a distinction correct?

A. Yes.

Q. How about Farben; did the most plants of Farben, apart from powder plants and explosive plants, - were they armament or were they strategically and vital plants?

A. To answer this question clearly, I must emphasize that the Vermittlungsstelle-W was only the mediating agency between Farben and the authorities; that Vermittlungsstelle-W was not the---

Q. Please speak a little more slowly.

A. For instance, the affiliated plants, not the Dynamit-Nobel, but the plants of Farben, as such, were to the overwhelming majority KLM plants.

Q. What is and vital strategic plants? You have just mentioned, Dynamit-Nobel and wasag. Did Vermittlungsstelle-W have anything to do with these two plants in regard to mobilization plans?

A. No.

Q. You know that there is a difference in mobilization plans, in the armament plants and the strategically important and vital plants; isn't it true that in the armament plants a definite schedule had been drafted, but in the other plants, - that is the armament and strategically important plants, - a more general time-table had been arrived at; is that correct?

A. Yes. The difference between the mobilization preparations for the armament plants and the strategically important and vital

plants, were two-fold. As far as I know, the mobilization plan for the armament plants, were made earlier than in the other cases, and, secondly, the documents for the armament plants were much more detailed, and of a more formal nature than for the strategically important and vital plants.

In the latter plants, only time-tables were generally drafted. These were plans, which roughly indicated what could be expected in the way of production, and what might be important for the war, and what might not be important, and which might be left out as unessential for production in case of war.

Q. But since you said previously that most plants of Farben were not armament plants, then only such time-tables were drafted for most plants; isn't that right?

A. Yes.

Q. How were these production time-tables arrived at? Were they given to the authorities for approval?

A. No, that is not correct. Generally, the representatives of Vermittlungsstelle-W were called to meetings where representatives of the Ministry of Economic Affairs, and the subordinate chemical groups or Reich Agency Chemistry, and a representative of the Army participated.

In these discussions, the representatives of the Vermittlungsstelle-W were asked to give a report about what production was to be carried out in peace, and the authorities, especially Dr. Ungewitter, expressed his opinion in the various questions by saying, for instance, "This production seems only of a civilian nature, and should be unessential for war purposes. Therefore we do not want to incorporate it into the time-table for production".

In the case of other production, which seemed important to these representatives also for the case of war, it was pointed out to us that these productions should have to be carried out in war to the fullest extent.

THE PRESIDENT: Mr. Witness, we should have told you before you started testifying that it is necessary that your language be translated before we get the benefit of it, and you will help us very much if you will go a bit more slowly and let me remind you that when you see the flash of the yellow light it is an indication from the translation staff that you are going too rapidly, and if perchance you get the red light, that means for you to stop completely.

I should have told you that before. Will you please try to bear that in mind. And just one other thing. You can hear on your ear-phones, the translation, and if you will wait before you make an answer, until the question has been translated, then answer it, it will help very much, and we will appreciate your cooperation.

THE WITNESS: Thank you.

BY DR. BERNDT:

Q Most Farben plants were, as you said, strategically important and vital plants. May I ask the interpreter how he interpreted this technical expression "strategically important"? If it is called, "strategically important" then it is wrong.

THE PRESIDENT: Let's get this straightened out now, before we proceed. Will Counsel confer with the prosecution and see if you can agree on the translation?

DR. SPEICHER: Dr. Berndt points out that "lebenswichtig" has been translated "strategic". In his opinion, it should be translated, "vital".

DR. BERNDT: Yes.

DR. SPEICHER: That is all right with the prosecution.

BY DR. BERNDT:

Q Dr. Gorr, if these time tables for production for the strategically important and vital plants, - did they effect and fundamentally change in the production of the various plants, or didn't things remain generally as they were before?

A. The peacetime production of the various plants was not

touched by these so-called "mob" plans. These mob plans only had the function to point out to the direction in the plants what products would be required for war and what production would have to be terminated as unessential in case of war.

Q In case of war there were so-called war delivery plans. Did they constitute large share in the the production of all the plants?

A. These constitute only a very minor part in the total production capacity of Farbon.

Q You know that the army ordnance office or other army agencies had so-called readiness plants?

A. Yes.

Q Did you know that already in Vermittlungsstelle-W before?

A. Yes.

Q Was there a large number of readiness plants?

A. It was comparatively small.

Q Can you give me a few names of these readiness plants?

A. They were especially enterprises for the production of highly concentrated nitric acid, and also for the production of light metals; at least, the capacities, in the case of light metals plants in the years before the war, had not been completely met, and I believe that it had been provided that these plants should increase their production during the war.

Q By last point; you know all mobilization plants, also the war delivery plans, you had just stated that you know the standby or readiness plants; You know then, and you had a comparatively good insight into the economic mobilization of Farbon plants. Isn't that right?

A. I had a comparatively good insight into the Farbon industry, but I would emphasize only in the case of Farbon plants, not in the case of Dynamit-Nobel and other affiliated enterprises.

Q By reason of your knowledge did you gain the impression that a definite plan was prepared for the case of war?

4. I had the impression that the authorities were interested in having the economic capacity of Farben thought out to such an extent that in case of war they might be employed for the purposes of the German Wehrmacht to the fullest extent.

5. Did you have the impression that this was intended for an aggressive war?

THE PRESIDENT: Just a moment.

MR. SPALCHER: Objection. This is beyond the scope of the direct examination, and is improper cross-examination.

THE PRESIDENT: What are the views of counsel for the defense as to what part of this affidavit or these affidavits, does this enquiry pertain? We are inclined to the view unless counsel is in a position to call attention to something we have overlooked in the reading of these affidavits that this is outside the scope of the affidavits.

DR. BERNDT: I believe it isn't quite outside the scope of the affidavit, for the affidavit deals with Vermittlungsstelle-W and the preparations for war.

THE PRESIDENT: Just a moment. The president's attention has been called to sub-section D of Paragraph 5 and we think the question is proper. The objection is overruled. The witness may answer the question if he understands it. If not, he may ask that it be repeated.

BY DR. BERNDT:

Q. May I ask you, do you still remember my question?

A. Please repeat it.

Q. I asked you whether, by reason of your entire knowledge that you had, you gained the impression that this preparation was intended for an aggressive war.

A. May I say a few words? I Can't answer the question in a simple sentence. The impression that a war of aggression was planned by Germany was not gained by me. I only had the impression that German politics was taking the course of exciting a psychological pressure and that it was, therefore, the desire of the competent agencies of the Government to make Germany to a high extent ready for war and not to conceal this fact from the foreign countries.

DR. BERNDT: Thank you very much. I have no further questions. I would merely like to ask the prosecutor to check the translation of the word "Bereitschaftsplant" which has been translated by "readiness plant", "stand-by plant."

MR. SPEECHER: I don't know whether or not Dr. Berndt's observations concerning the translation in this case is completely cor-

rect or not, but, in any event, he states that Bereitschaftsplant was translated "shadow plant" and that it should have been translated "stand-by plant". If that is what was said --

THE PRESIDENT: If the term "shadow plant" was used I am unable to recall it.

MR. SPRECHER: Dr. Heinzler now tells me that the translation was "readiness plant" rather than "stand-by plant." I think the translation will be correct in either way. We think perhaps "stand-by plant" is better but it is a very close question in our minds. We will concede the translation.

THE PRESIDENT: Very well. Any further cross examination of the witness?

BY DR. SILCHER:

Q. Silcher for Dr. von Knieriem. Dr. Gerr, my questions also refer to your affidavit, Exhibit 141. On page 6 of your affidavit you speak about the central work of all questions according to the sense of the authoritative regulations. Is it correct that by the agency of the Vermittlungsstelle-W nothing was changed in the work that was done with the patent questions?

A. Your view-point is correct. By the mediation of the Vermittlungsstelle-W nothing was changed in patent questions.

Q. Is it correct that Vermittlungsstelle-W was employed only when the questions of secrecy of objectionability, and questions of granting licenses abroad and exchange of information abroad were concerned and when the idea of treason might have been involved?

A. It's correct that Vermittlungsstelle-W was used only in pertinent questions of patents in order to serve as a post-office and to establish connections between the competent army agencies and to submit the questions to them whether these registrations could be publicly known or whether it might be in the interest of the army to keep these registrations secret temporarily.

Q. Then, in the case of these patents and licenses that the

Vermittlungsstelle-W was dealing with, they were only a part in which aspects of secrecy or treason might enter into the picture?

A. The arrangement was such, that the experts in the patent departments of the various plants in collaboration with the inventor of the patents had to check the questions whether these registrations were of strategic importance. If it was answered in the affirmative then it was turned over to the Vermittlungsstelle-W with the request to ask the competent army agencies in Berlin whether these registrations should be kept secret or whether they might perhaps be only of a civilian character. For the questions of giving licenses to foreign countries the Vermittlungsstelle-W was not so completely called in as was done in the case of patent questions as such. Things concerning granting of patents frequently were taken care of by the experts of the plants directly with the Berlin authorities.

Q. In the case of possible negligent treason wasn't Farben compelled to discuss these questions with the army?

A. It was, of course, the duty of every German citizen and especially every person who had a responsible position in the German economy to know the regulations for secrecy and to observe them strictly. These regulations were not so sharply defined that they might be understood quite simply. It was always pointed out that every citizen had the duty to investigate whether any process that he was participating in was conforming to the regulations for secrecy or not.

Q. You are speaking of regulations for keeping things secret. Weren't there also regulations of the penal code that might be involved in this case?

A. There were regulations in the penal code which mentioned the documents for pledging secrecy that had to be signed by certain personalities in the German economy.

Q. Is the concept "treason" properly listed in the penal code?

A. I don't know. It may be classified under that title "Treason."

Q. If I remember correctly, you answered Dr. Berndt's question by saying that the authorities were generally broad-minded in giving such permissions and that they were broad-minded because they were influenced by you and your colleagues, that is the agency of Farben. Did I understand you correctly?

A. Yes, you understood me correctly.

Q. The policy which Farben observed, that is, registrations of patents abroad, granting of licenses abroad and exchange of information with foreign countries, was this policy of Farben in these questions correctly portrayed when I say that they endeavored to go to the extreme limit where treason might already begin?

A. It's my conviction that the Farben industry went to the most extreme limits of what they could possibly do, still avoiding conflict with the law, in order to further the exchange of information with the foreign countries.

DR. SILCHER: Thank you. I have no further questions.

BY DR. VON ROSPATT:

Q. Dr. von Rospatt for Prof. Krauch. Dr. Gerr, I have a few questions on the same affidavit. On page 5 of the original under Section G you mention the fact that the preparation of mobilization plans had been ordered by the authorities. Can you please tell me what authorities issued such orders?

A. These directives originated from the OKW and from the Reich Ministry of Economics.

Q. On page 6 of the original under H you say that by instigation of authority war games in the various plants were carried out. What authorities gave any instigations for the carrying out of these war games or maneuvers?

A: I can't answer this question precisely but I assume that the directives, in the final analysis, were issued also by the OKW and by the Reich Ministry of Economic affairs.

Q: The mobilization plans, the war games and air-raid precautionary measures were not instituted voluntarily by Farben but by request of the authorities?

A: As far as I know, from my own experience, these war games did not originate from the initiative of Farben but I must add that I consider it possible that one of my former colleagues, Dr. Ritter, who was very much interested from an academic viewpoint in these questions, organized quite a few which were not ordered by the army. If this assumption of mine is correct, this is not an active interest of the people in charge of Farben but rather an intervention of a particular expert in Farben industry.

Q: On page 7 of the original you spoke of the fact that the intelligence agency of OKW at the end of 1939 criticized the Farben intelligence agency. How did they express that criticism?

A: A few weeks after the war broke out Dr. Struss, my former superior called me on the telephone and said that a letter from the Abwehr agency of OKW had arrived in Frankfurt which criticized the attitude of the main chief delegate of the Farben Abwehr, Herr Faupel, and my own attitude. If I am not mistaken this letter also said that these two gentlemen in question should resign from their position by request of OKW.

Q: What did you do after you learned about this letter?

A: I didn't do anything and waited until my superior Dr. Struss came to Berlin in order to discuss this question with me and then to speak to the agencies of the Army that

were probably concerned with these questions.

Q: What persons did you speak to in the Army agencies?

A: I can only remember the conversation in which the person concerned for Abwehr questions of the army, in the industrial Abwehr, Col. Ruddleff participated.

Q: Was this a representative of Admiral Canaris, the Chief of the Abwehr?

A: I cannot answer this question clearly. As far as I know he was the expert in charge of the Abwehr agency for industrial questions.

Q: What were the reproaches this expert expressed to you that he didn't like?

A: In order to answer that question the Tribunal must give me permission to be a little more broad in my statements, if the Tribunal would give me permission?

THE PRESIDENT: The Tribunal is imposing no limitation or restrictions at this time on any answer that the witness deems proper except the one that follows the flashing of the yellow light, to go a little bit slower.

A: In the Hoechst plant of Farben, after the first World War, a certain Dr. Meder was working. In 1933, after the Nazis had gained power, a few of my former colleagues and especially my later collaborator Dr. Hans Wagner, made representations to the direction of the Hoechst plant and said that this particular Dr. Meder had been active in a separatist way. These representations were made so intensely that the Hoechst direction, and, I assume also the people in charge of the other plants saw themselves compelled to dismiss Dr. Hans Meder from service in Hoechst and to pension the superior of Dr. Meder, Dr. Romer, a little prematurely. Dr. Hans Wagner, who became my associate later in the Vermittlungsstelle-W, told

me in many private conversations that he, himself, personally waged this war against the alleged separatist Dr. Meder. The facts that the suspicion had been raised against Dr. Meder were known to me. It was part of the function of the Vermittlungstelle-W during the time when the last World War began, to report to certain authorities in the army if an expert of Farben was forced to deal with certain development plans which were considered secret by the army. At the beginning of the war Dr. Meder who was in charge of the inorganic department of the Leverkusen plant of Farben at the time, that is, who was supposed to be in charge of those plants at the time, and, who therefore, had to deal with certain questions in chemical warfare agents field, -- I reported to the competent authorities of the army because it was my duty about that fact but in the letter to the OKW, that is, the subordinate agency of the OKW, I quite consciously avoided to point out that Dr. Meder had been suspected of having been active in a separatist way, at one time or another. I did that, because I believed that the rumor about Dr. Meder was either incorrect or greatly exaggerated and secondly, because I believed it.....

Q: Can you please be a little more brief. My question was only intended to ask, did the criticism of the Abwehr of OKW exceed this single instance? Did they criticize or what do you know?

A: I assume that in the letter to Frankfurt this special case was criticized only but that in later conversations, that is, with the Abwehr of the OKW, the general attitude of Farben was criticized. I, myself, as I have already mentioned, participated in a discussion with Col. Rudloff in which Col.

Rudloff in quite unequivocal manner criticized the national attitude of the direction of Farbenindustrie. In his statements he expressed the fact that the people in charge --

THE PRESIDENT: Witness, you have answered the question. As I understand the attitude of this officer was one of criticism. That's of doubtful value and importance here but for whatever it might be worth, it's in the record. Counsel, ask another question, please.

BY DR. VON ROSPATT:

Q: What was charged? How did they express it?

A: What was your question?

Q: What words were used?

A: "We know the people of Farbenindustrie. They are internationally minded, liberalistic, and only want to take care of their own interests."

Q: Thank you very much. On page 3 under D of your affidavit you say it's the function of the Vermittlungsetelle -- W to mediate in the cooperation of Farben and the Wehrmacht. In this connection, before the war broke out, that is, in 1939, did you know of the intended attack on Poland and did you pass this information on to your colleagues, superiors, and the defendants or were you surprised by the outbreak of the war?

THE PRESIDENT: Just a moment.

MR. SPRECHER: An objection for the same reason as to the similar question by Dr. Berndt which was more general.

DR. VON ROSPATT: Mr. President, I defined my question a little more this time, as to whether the witness knew definitely that Poland was to be attacked or whether he was surprised because of his medietionary work between the army and Farben.

THE PRESIDENT: If the witness will answer the question very directly by stating whether he did or did not know, the

Tribunal will permit him to answer.

BY DR. VON ROSPATT:

Q: You may answer.

A: No, I did not know.

Q: Were you surprised?

A: Extremely surprised.

Q: Did you express your surprise to third parties?

THE PRESIDENT: Now, that is getting too far afield. He has shown that his surprise and lack of knowledge. That's perhaps far enough. The objection is sustained.

BY DR. VON ROSPATT:

Q: Did the plans of the chemical industry abroad, which you know of in your activities of Vermittlungsstelle-W were they made for strategical reasons or for commercial reasons by Farben?

THE PRESIDENT: Just a moment.

MR. SPRECHER: An objection.

THE PRESIDENT: Can we hear counsel for the defense as to why you think this is a proper inquiry? Very briefly, please.

DR. VON ROSPATT: I can see a connection between the affidavit and my question in No. 3-D on page 3 of the original. That's the intervention of Vermittlungstelle-W in the collaboration of Farben and the Wehrmacht. In this connection the witness was also concerned with the so-called "Standartplaene."

THE PRESIDENT: Well that seems pretty far afield, just a moment, please. Give us again the reference to the affidavit that you think would support this question, what is the page and paragraph and subdivision, please?

DR. VON ROSPATT: Intervention in the cooperation between Farben and the Army.

THE PRESIDENT: Now will you please state again for the benefit of the Tribunal the question you propounded or the substance of it?

DR. VON ROSPATT: Were the Standort plans of the chemical industry abroad, which you know of, by reason of your activity of mediation, between Farben and the Army, made because of military view points or because of commercial points of view?

THE PRESIDENT: It has a doubtful pertinency but we are going to allow the witness to answer and give counsel the benefit of the doubt in this instance and he can answer this very briefly whether he did or did not know of it.

BY THE WITNESS:

From my work these plans were not known to me at all only because of the fact that the competent agency of Farben in Berlin gave me reports occasionally in which such places of foreign industry were pointed out. I never felt that these plans were made for military reasons, only because it had to be the function of such a tremendous enterprise as was Farben, to be informed about the site of these foreign competitive plants.

Q. What difficulties confronted the import of tetra ethyl lead that had been initiated by the authorities before the war?

THE PRESIDENT: That will do. The witness does not show any source of information that would be of any value to the Tribunal and the objection is sustained.

DR. VON ROSPATT: No further questions then.

THE WITNESS: If the Tribunal permits, I believe I can give you a

valuable statement because I talked with the experts.

THE PRESIDENT: That would be hearsay on your part, anyway, and very remote from the thing with which we are here concerned. Are there any further questions.

BY DR. DIRSCHEL: Counsel for Dr. Ambros:

Q. "Witness, I should like to speak about this affidavit Exhibit 648, that is document book 36, page 66, Exhibit 648, do you have this?

A. Yes.

Q. On page 2 you speak of the fact that in the case of the Falkenhagen plant Farben wanted to have the capital claim secured. What do you mean by this "capital claim" of Falkenhagen?

A. I understand by that the justified claim of Farben to decide the technical measures in the plant themselves.

MR. SPRECHER: May I ask the Interpreter how he interpreted "Führungsanspruch"?

INTERPRETER: I said "capital claims" but I imagine it is claims for leadership.

THE PRESIDENT: Very well.

BY DR. DIRSCHEL:

Q. That is a question of the technical leadership, is this also to include all construction and production programs or do you want to define this a little more?

A. When Farben was asked to build a chemical warfare agents plant, there was a plant which had already been established by the Army on the Site for the production of an incendiary agent. When Farben declared they were ready to build on that site, in order to fulfill their mission they had to ask that they themselves be able to decide and dispose of the technical materials that were on this construction site.

Q. You said just now when Farben declared they were ready to take over this plant. How did it come about that Farben declared themselves ready, did they ask for it, did they urge that they be permitted?

A. I cannot answer this from my own knowledge but I believe that I can say that Dr. Ambros, who was charged with the leadership of this plant was asked by the competent authorities to take over construction of the new plant.

Q. Do you know whether Dr. Ambros opposed taking over this construction?

A. I remember that Dr. Ambros was of the opinion that, generally speaking, it would be more favorable for a contractor to begin on a new site with his construction and that it is disadvantageous if one has to incorporate already existing parts of construction in his own construction.

Q. What were the difficulties with the directions of the other plants that were in existence?

A. The gentlemen in charge were all officers of the Army who had worked in this plant for many years and who wanted to be quite independent and had a pleasant life there. These gentlemen, of course, were not happy about the fact that people came in here now who were dealing with these matters from a technical view point.

Q. You say further that Dr. Ambros considered you the proper person to deal with these difficulties. I don't want you to give any evaluation of yourself, but please tell me where Dr. Ambros seems to derive the knowledge that he might have placed you on the proper spot?

A. Dr. Ambros expressed frequently to me that it would not be easy to work with these Army officers who were already established in these plants in Falkenhagen and that he would have to see to it that an agent of Farben would be working in these plants who had a way of dealing with Army officers, and furthermore, Dr. Ambros, probably because of his exact knowledge of my character, concluded that I might well be capable to deal with the questions of competency and to settle them.

Q. This activity was subordinate to Ambros in connection with the

tasks of the Special Committee "C" that he took over in 1943, isn't that right?

A. I cannot answer this question unequivocally. It might be that Dr. Ambros saw this function only as part of his capacity as a member of the Farben Vorstand.

Q. Do you know in what connection Dr. Ambros was given the task of directing the task of the Special Committee "C"?

A. It was a matter of course that the Army agencies when looking for a proper personality to direct the Special Committee "C", or quite generally speaking, for dealing on a high level with all questions in the chemical warfare agents turned to Dr. Ambros, who - - -

THE PRESIDENT: He has answered the question you have asked. Please ask another question.

BY DR. DRISCHEL:

Q. Perhaps one more concluding question and then I shall be finished. Did Dr. Ambros ever tell you anything about the value of this plant and about a possible proper exploitation of such an enterprise?

A. Yes.

Q. What was his view point?

A. I understand your question that when you speak of this "plant" you mean the plant that was already in existence in Falkenhagen, the nitrogen plant in Falkenhage.

Q. Yes, I mean that plant.

A. Dr. Ambros expressed to me several times in a very caustic manner that he considered the "N substance plant" in Falkenhagen as nonsensical from a technical as well as a military point of view.

Q. No further questions.

BY DR. HOFFMEIN: Attorney Dr. Hoffman in place of attorney Dr. Aschenauer for the defendant Gattineau:

Q. Witness, I am examining you with regard to your affidavit NI-7611. In this affidavit you make statements about the functions of the Vermittlungstelle W, and its connection to the Berlin Central Agencies,

as well as its organization within the framework of Farben. May I ask you in this connection whether the Vermittlungstelle W, when Dr. Gattineau was in charge of the Wipo, that is until the end of 1938, collaborated with the Wipo or whether both worked separately?

A. Both agencies worked separately. Only in very rare cases did it happen that a professional connection became necessary between these two agencies.

Q. Do you know whether this remained so in the future?

A. The conditions as described by me continued to exist until the end of the war.

Q. May I now ask you: Was Wipo informed by the Vermittlungstelle W about their work?

A. I understand your question to be whether the Wipo was informed about the work of Vermittlungstelle W?

Q. Yes.

A. In no cases was it currently informed; at the most perhaps in special cases.

Q. Thank you. Then as a defense counsel for Von Der Hoyde I have a few more questions which resulted from the present cross examination. Did I understand you correctly when you indicated you were an Abwehrbeauftragter?

A. I was Deputy of the Abwehrbeauftragter in charge of my office in the Vermittlungstelle W.

Q. May I ask were there many Abwehrbeauftragters? Can you tell me about how many?

A. I understand your question to be that you want to know how many Abwehrbeauftragters there were within Farben?

Q. Yes.

A. Every plant probably had one Abwehrbeauftragter, and then perhaps a few central departments of Farben also had one.

Q. Do you know whether there was any legal basis for this, that all German industry had to employ such Abwehrbeauftragters?

A. I don't know that but it was certainly based on official directives , by an authority.

Q. Do you know whether all German industries had to employ such Abwehrbeauftragters?

A. I am convinced that all important enterprises of the German industry had been instructed to appoint and maintain such Abwehrbeauftragters.

Q. Witness, do you also know that there was a main Abwehrbeauftragte in Farben?

A. Yes, I do.

Q. Can you please tell me whether his position was in any way distinguished from the other Abwehrbeauftragte or were his duties the same as any other Abwehrbeauftragte?

A. His duties were principally the same as those of any Abwehrbeauftragte, but as the name already implies -- Hauptabwehrbeauftragter , -- which is the chief Abwehrbeauftragte, he had the function to achieve a certain coordination in the working methods of the various Abwehrbeauftragte.

Q. I should like to revert to your first answer. You said that you were the deputy of an Abwehrbeauftragter?

A. That is correct.

Q. To what extent did your work differ as a deputy from that of a real Abwehrbeauftragte?

A. As far as the Abwehrbeauftragte had to intervene in my office, the measures or discussions were taken or held by the real Abwehrbeauftragte, my colleague, Dr. Dieckmann. My task was only in case of an occasional absence of Dr. Dieckmann to receive telephone reports that might be coming in from the authorities and if quick action was necessary to carry out such steps as were necessary.

THE PRESIDENT: Counsel, are you still inquiring about the exhibit 648?

DR. HOFFMANN: Yes, Mr. President.

THE PRESIDENT: Do you have some more questions to ask about exhibit 648?

DR. HOFFMANN: A few more.

THE PRESIDENT: Does any other defense counsel wish to interrogate this witness with reference to Exhibit 648? If you do please let us know. If you have only a few more questions --

DR. HOFFMANN: Yes.

THE PRESIDENT: -- we will permit you to conclude, but if there is going to be very much inquiry concerning exhibit 648, the Tribunal might have something to say about the pertinency of the affidavit itself, but go ahead if you are almost through and if you can finish up by about eleven o'clock we will permit you to conclude.

DR. HOFFMANN: Definitely.

BY DR. HOFFMANN:

Q. "itness, you said that the Abwehrbeauftragter was Dr. Dieckmann?

A. Yes, that is what I said.

Q. As Deputy you know what functions Dr. Dieckmann had?

A. Yes.

Q. Can you tell me briefly what duties Dr. Dieckmann had as Abwehrbeauftragter?

MR. SPRECHER: Dr. Dieckmann was on the witness stand in this case previously and he was here concerning these matters. I don't see why we have to have this unless there is some point on which Dr. Hoffmann wants to impeach the witness Dr. Dieckmann. I don't see the relevancy.

THE PRESIDENT: The Tribunal is only interested in the continuation of this cross examination from the standpoint of time. We think the affidavit itself upon which the cross examination is based has practically no probative value. We think the cross examination just burdens the record and counsel for the defense can take this observation for what he thinks it may be worth.

The Tribunal is not impressed with the probative value of exhibit

No. 648. Now perhaps I ought to say to counsel , that what we have said applies exclusively to Exhibit 648. If you have what you regard as pertinent questions concerning the other affidavit, please do not feel restrained from pursuing your cross examination. We were just advising you, that as we view it, Exhibit 648, stands alone, and that it does not have sufficient probative value to warrant any cross examination.

MR. SPRECHER: The questions, Your Honor, I think were being directed toward Exhibit 141.

THE PRESIDENT: I just asked counsel before and perhaps he made a mistake, if he were still questioning the witness on 648.

BY DR. HOFFMANN: Witness, please answer this question very briefly. Do you still remember my question?

A. No please repeat it.

Q. A short description of Dr. Dieckmann's duties.

A. It was Dr. Dieckmann's duty, as it was the duty of any other Abwehrbeauftragte to see to it that the events that had to be kept secret in the office which he was in charge of remained secret in the office which he was in charge of remained secret, and that no extraneous sabotage was carried out in the circle that the Abwehrbeauftragter had to take care of.

Q. Only two more questions. Do you know that Herr Von Der Heyde had the same position beside Dr. Dieckmann?

A. I know that Dr. Von Der Heyde was also one of the many Abwehrbeauftragte in Farben. Furthermore, I know that Von Der Heyde was the representative of the Abwehrbeauftragte Chief of Farben for Commercial matters, in the same way as Dr. Dieckmann apart from his capacity as Abwehrbeauftragte of Vermittlungsstelle W also had the position of Deputy Chief Abwehrbeauftragte for all technical matters.

Q. Was there any difference in the position of the two gentlemen, Herr Von Der Heyde and Dr. Dieckmann?

A. I don't know of any difference.

DR. HOFFMANN: Thank you very much.

THE PRESIDENT: Is there any further cross examination. None being indicated we will declare the cross examination closed. Has counsel for the Prosecution any re-direct examination?

MR. SPRECHER: No, Mr. President.

THE PRESIDENT: Then the witness is excused and the Marshal will escort him out. The Tribunal will rise for its morning recess.

(A short recess was taken.)

THE MARSHAL: The Tribunal is again in session.

MR. SPRINGER: The prosecution calls the witness, Eberhard Gross.

MR. SPRINGER: The single document involved is Exhibit 356 which is NI 6927. It's in Book 36 at page 91 of the English, page 122 of the German.

EBERHARD GROSS, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q The witness will remain standing for the purpose of being sworn and raise his right hand, please.

Now, say "I" and state his name.

A I, Rudolf Eberhard Gross.

Q And now repeat after me:

"Swear by God the Almighty and the Omniscient that I will speak the pure truth and will withhold and add nothing."

(The witness repeated the oath.)

The witness may be seated.

DIRECT EXAMINATION

BY MR. SPRINGER:

Q What's your present address, in German?

A Wuppertal-Elberfeld, Herwarthstrasse 3.

Q What is your present occupation?

A I last was head of the industrial hygiene laboratory of the I.G. at Elberfeld and at the University of Bonn.

Q Do you still have those positions at the present time?

A After I was released in June, I have not started to work yet, but I am told that I can resume my activities as industrial hygienist in the British Zone for the former I.G. Works, I do not know yet what my work in Bonn is going to assume.

Q You have been ill recently, Professor?

A Yes, I was ill in the hospital in Munich and Reichenhall recently.

Q Now, you have before you the copy of the affidavit which you gave, is that right? NI 927, Exhibit 656?

A Yes.

Q At the time the investigator talked to you, did he discuss with you the obligation for telling the truth and the penalty for perjury?

A Yes.

Q Doctor, have you.....both you and - Have Dr. "elte and you and I discussed some alterations in this affidavit yesterday or today?

A Yes.

Q Now, will you please be very short in making these alterations and corrections and you will notice that all the paragraphs are numbered, and if you will refer to the numbered paragraph and then give your explanations or correction as shortly as possible, I think we will save some time and have more clarity. Proceed.

Q Under #1 of the affidavit, yesterday I made the following change. In the first sentence: "I joined the I.G. in Ludwigshafen in 1926," I added the words "as industrial hygienist and head of the laboratory."

And in #2, instead of "collaboration between I.G. and the Army Ordnance Office and as far as I remember in 1935," I wrote, "The approach of the Army Ordnance Office to approached I.G. took place."

Under #2, on the sentence "a Professor Hoerlein was commissioned by the gentlemen", I changed this to "Professor Hoerlien was commissioned by the gentlemen that with regard to toxic substances I should place my experience at the disposal of the gentlemen."

THE PRESIDENT: Mr. Witness, please may we remind you that your testimony must be translated before it gets to the ears of the Tribunal and that requires a little slower procedure than ordinary. The two lights in front of you are signals lights. The yellow light is a

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warning that you are going too rapidly. When it is flashed on, will
you please slow down. The red light means that you are to stop com-
pletely until you are told to continue. If you will bear those things
in mind, it will help us very much.

Under No. 3, "It is known to me that some time afterwards, Professor Heinrich Hoerlein acted as an intermediary within Sparte II, Chemicals. In this capacity he was to receive records of all highly toxic substances within the I.G. which he then gave to me for examination". I added these words, "which were given to me for examination".

In the next sentence, "I had to establish," I have written, "I had to establish by animal experiments".

At the end of the same sentence, "whether the substances fitted into the schedule which had been handed over to I.G. Elberfeld by the Army Ordnance Office, i.e. whether they could be used as chemical warfare agents". I have changed, "whether they could be used as chemical warfare agents", to "whether they could be of interest to the Army Ordnance office or not".

Under No. 4, at the end, instead of "registered as a patent", I have changed that to "whether they could be made public as a patent".

Under No. 5, in the second sentence from the end, "From all reports the purpose of the examination could be perceived" I have added the explanation, "of the examination", that is, a clarification of the question, whether of interest to the Army Ordnance Office, or whether the preparation could be released for I.G.

Under 6, the beginning is changed a little. It reads:

"Of experiments were of interest to the Army Ordnance Office, and carried out by me, I mention the following". and then it goes on "Ethyloni-mine" etc. In the same passage, in the middle, after "Tabun" in parenthesis it said, "from 1936-1937 onwards". This is a factual mistake on my part. It should be, "1937".

After "Sarin" in the same paragraph, it says, "From 1939 onwards". Then there is a parenthesis, "Tabun and Sarin developed as poison gas from insecticides".

I have changed that to "Tabun and Sarin developed by the Army Ordnance Office from insecticide of the I.G. into poison gas".

In the same paragraph, in the next sentence, speaking about nitrogen lost, "development of poison gas from intermediate" should read, "development

from intermediate of the I.G. to poison gas by the Army Ordnance Office".

In the same paragraph, in the next sentence, "In this case, I.G. Ludwigshafen negotiated on its initiative with the Army Ordnance Office", I should like to add, "I.G. Ludwigshafen, according to a letter which was shown to me by the interrogator, negotiated also on its initiative with the Army Ordnance Office, that is, not", and here the word "only" is added: "not only through Professor Heinrich Hoerlein".

In the next sentence, in the same paragraph, where it says, Tabun, the date should be "1937 to 1938, Tabun was known as Le 100 in my laboratory".

The next sentence, "the army called it Gelan or Trillon temporarily". Then it says, "from about 1939-1940". I do not know exactly about the date. I can only say: "Finally the name Tabun was generally used".

In paragraph 7, "I have from approximately 1936" should be changed to "1937", reading "approximately 1937 to 1944".

In the same sentence, "injection tests and inhalation tests", "on animals with Tabun" should be inserted after "tests".

In paragraph 8 I have recorded an inaccuracy by mistake which I have corrected. It should read: "From time to time, chemists from the Army or Army Ordnance Office at Dyhrenfurth were at the laboratory of Dr. Schrader at Elberfeld", it says in the original, "and worked there for approximately 8 to 14 days". Actually, on the latter worked there, it should say, "some of the latter worked there approximately 8 to 14 days".

Under No. 9, "I.G. Elberfeld sent small quantities of Poison Gas"; instead of "poison gas" I should like to put down, "highly toxic substances to the Army Ordnance Office", and instead of "for experimental purposes", I should like to say, "to make chemical and animal tests".

Under 10, that was drawn up by the interrogator, and corrected repeatedly by me, is rather unfortunate in the formulation. I have rewritten it completely anew, with the same expressions, but so that the meaning is clear. It should read:

"Paragraph 10. Dr. Schrader, always primarily had the hope that one or another of the substances developed by the latter be used as an insecticide,

but in addition, after the highly toxic effect of Tabun was discovered, and was reported to the Army Ordnance Office, but was burnt up during shooting tests of the Army Ordnance Office, he tried to find a more stable substance. In this process Sarin was discovered. Afterwards it was discovered that Tabun and Sarin could not be used as plant protective agents, since they were too highly toxic".

Under paragraph 11, "When the I.G. Laboratory of Industrial Hygiene, Elberfeld was altered in the years 1937-38, the fact that tests were carried out for the Army Ordnance Office at I.G. Elberfeld", I have changed that and I have written:

"The fact that quantitative toxicity tests were carried out in Elberfeld, according to the schedule of the Army Ordnance Office, was allowed for, to a certain extent". I have added an explanation in parenthesis. "The space in question was one room, about 3.6 per cent of the whole laboratory".

In paragraph 12, where I described that "In the year 1942 I was sent by Professor Heinrich Hoerlein to Dr. Ambros at Ludwigshafen" in order after to explain to him who was about to report to the Fuehrer's headquarters on the chemical warfare questions, the physiological effect of Tabun and Sarin.

"I had received the assignment by Professor Hoerlein to ask Dr. Ambros to advocate that chemical warfare agents not be used at all. I carried out this assignment, and I passed the information to Dr. Ambros". Finally, I should like to add, that Dr. Ambros shared this opinion. That "Dr. Ambros shared this opinion", should be added here.

These are the changes, your Honors, which I have made.

BY MR. SPRECHER: After considering this affidavit for some time do you have any further changes that you would like to make at this time?

A No, I am satisfied with this version.

MR. SPRECHER: No further questions.

THE PRESIDENT: Just before we proceed with the cross-examination, may we inquire of counsel for the defendant. Hurster is present at this moment.

Counsel, the Tribunal has information from the prison physician that your client is on a schedule for some treatments on Friday and Tuesday

afternoon, that require about an hour and a half in each instance. We would suggest that you advise your client of that, so that he may obtain and receive his treatment today, and as long as this schedule is in effect.

It will not be necessary for you to get a formal permission for your client to be absent. He will be excused for the duration of those treatments, and the Military authorities will take notice of the Tribunal's order.

DR. HEINZELER: Thank you, Mr. President.

CROSS EXAMINATION

EBERHARD GROSS

BY DR. NELTE, counsel for the defendant Hoerlein:

Q. Witness, you have made many corrections in the Exhibit 656 submitted by the prosecution, and given explanations, additions and corrections. Therefore I can restrict my questions considerably, but it would shorten the examination if you would answer my questions as briefly as possible, and when possible, with yes or no.

You were the head of the Industrial Hygiene Institute of I.G.?

A. Yes.

Q. Will you please tell us briefly what your duties were as head of the Industrial Hygiene Institute?

A. While Industrial hygiene works in many fields of medicine with the aim of protecting the health of workers in chemical industry, in view of the fact that there chemicals are primarily worked with it is the duty of the industrial hygienist, primarily to prevent damage from chemicals to which the persons who work with such substances are threatened; to recognize such threats in time, and to make suggestions as to how such damage can be prevented entirely, or, at least reduced to a minimum.

Therefore, the work of my laboratory was primarily, not exclusively but primarily toxicological research, that is, research as to possible poisonous effect of a chemical; and an acute effect not of large doses, but especially to determine the effects of very small quantities in chronic applications.

Q. Thank you. I think that will suffice for the moment.

Is it true that whenever toxic substances were sent out, this was done for reasons of industrial hygiene?

A. That was the rule, yes.

Q. Is it true that your Institute worked for all plants of the I.G., or was intended for all plants of the I.G.?

A. When I joined the I.G. at Ludwigshafen in 1926, I first worked

only for the Ludwigshafen and Oppau plants, and industrial hygiene, which was an innovation within our industry in that form, was built up by me.

After a few years, after my work had become known in the other plants, I was made head of the central laboratory, and thus I had the task of dealing industrial hygiene questions on a scientific basis for all I.G. plants.

Q. That was from what year on?

A. That was from approximately 1928 or 1929 on, when I was still in Ludwigshafen.

Q. When did you or your Institute come to Eberfeld?

A. In 1932, in the spring. The transfer of the laboratory had been discussed for about two years beforehand.

Q. Thank you, then it is true that all plants of I.G. from 1928 on, were to send you, for examination for industrial hygiene purposes, any substance, if there was a suspicion of harmful effect, either for those producing it, or for the consumers?

A. Yes.

Q. Now if your finding, as head of the Industrial Hygiene Institute, showed that it was a toxic substance, is that proof for you that it was a war gas?

A. No.

Q. Is that true of highly toxic substances, as well?

A. In the case of highly toxic substances, the question of whether the high toxic substances might possibly be used as a chemical warfare agent depends on a number of other factors, which I, as a medical man and an industrial hygienist cannot decide, I can only determine whether a substance is highly toxic or less toxic, in an animal experiment, but I can never say whether it fulfills all conditions which make a substance suitable to be used as a chemical warfare agent.

Q. Then I may summarize your answer by saying, if a plant, any plant of the I.G. sent you a substance, this was primarily for the purpose

of industrial hygienic examination?

A. Yes.

Q. And if in this examination you discovered that this substance was highly toxic, then what did you have to do?

A. Then I gave an opinion within the I.G. which was sent to the plants concerned and to other persons interested, and I referred to my findings from animal experiments, - I referred to the dangerousness of the substance.

Then on the basis of studies of the technical use and purpose, which varied from case to case, and involved detailed interests, I made examinations, and I had to acquaint myself with the technical details of the work, and the purpose for which the substance was to be used, and then on the basis of this knowledge I made suggestions as to how one should handle this substance.

Q. I am now speaking of the time up to 1935.

A. Up to 1935 I dealt exclusively with what I have just described.

Q. Your report was first a determination of toxicity and second, suggestions as to how the harmful effects could be prevented?

A. Or reduced to a minimum.

Q. Now is it correct that you and your associates after the discussion mentioned in your affidavit under No. 2, which Dr. von Sicherer had with Professor Moerlein and Professor Schulemann, you had to sign a statement which mentioned the legal provisions relating to treason and secrecy?

A. Yes.

Q. Then you know that from 1933 on, the regulations respecting keeping secret facts of military importance were also specifically referred to by the higher authorities?

A. Yes.

Q. Now to establish the connection with your work, you said that even highly toxic substances, did not necessarily mean to you that the substances were suitable for use as chemical warfare agents, but is it

true to say that if a substance can be developed for a chemical warfare agent, it has to be highly toxic?

A. If it is to have any significance as a chemical warfare agent, one of the conditions is that it is highly toxic.

Q. That means that highly toxic substances are of military importance?

A. According to the regulations which were brought to our attention through the discussions of the year 1935, they had to be reported to the Army Ordnance Office by us.

Q. Yes. Well then, fundamentally, your activity before 1935, as well as after 1935, was the same, with reference to your activity, your tests in the plant?

A. It remained completely the same, even in the method.

Q. The only thing that was changed was the duty to report certain substances to the Army Ordnance Office?

A. Yes, according to the schedule which was given to me by the Army Ordnance Office.

Q. According to the instructions, the schedule was to give you directions as to which a toxic substance was of interest to the Army Ordnance Office; Yes or No?

A. Yes.

Q. Is it true that in this schedule given by the Army Ordnance Office, there was a certain threshold value which had to be established?

A. Yes.

Q. And this schedule was supposed to limit the enormous work which would have resulted if all toxic substances had been reported to the Army Ordnance office?

A. Yes.

Q. Now in your affidavit under No. 3, you said that Professor Hoerlein had an intermediary position. The word intermediary position contains a judgment. The work of Professor Hoerlein, as your Chief, as head of the Hygiene Institute, did it consist of seeing to it that the

reports to the Army Ordnance Office were made?

A. Yes, Professor Hoerlein told me personally that he took over this intermediary activity. I understood that to mean that he would see to it that my work was carried out correctly so far as reports to the Army Ordnance Office were concerned.

Q. Did Professor Hoerlein with respect to the demands of the Army Ordnance Office, that these reports be made, have any opportunity to evade this responsibility?

A. Not in my opinion.

Q Would Prof Hoerlein or would you have been able to keep secret the discovery of a toxic substance which had to be reported?

A No.

Q Did Prof. Hoerlein, as well as you, have the obligation to secrecy with the threat of punishment for treason?

A Yes.

Q Is it true that Prof. Hoerlein and you, as well, had to assume the possibility to be tried by the People's Court if you intentionally or negligently had violated the regulations?

A Yes. According to my obligations and the signature which bound me to this obligation I was again — I can't say when it was, it might have been during the war already — I was called to the Berlin Army Ordnance Office in Berlin and there Dr. Jantzen, a lawyer for the Army Ordnance Office, once more explicitly made these regulations clear to me and I had to give my signature again.

Q In order to clarify the position of Prof. Hoerlein in this connection, according to your knowledge, did Prof. Hoerlein have an assignment from the Army Ordnance Office to develop chemical warfare agents in Elberfeld?

A In my laboratory the development of chemical warfare agents was not possible because of the reasons which I have already mentioned. My duty was merely to determine according to the schedule whether a substance was highly toxic or not and whether the Army Ordnance might be interested in it or not from the medical point of view. Anything else was up to the Army Ordnance Office and not to me.

Q Then it isn't true if one were to say that everything in Elberfeld was done to develop chemical warfare agents?

A No, only the preliminary conditions were clarified.

Q The preliminary conditions were objectively clarified?

A Yes.

Q Then not on assignment, the conditions were not created according to a plan?

A No.

Q Did Prof. Hoerlein have any special interest in the development of the chemical warfare agents? I mean by that, the person conducting this work in Elberfeld, namely, Dr. Schrader -- the development of substances which led to Tabun. Did he promote this work or not?

A As far as I am concerned there was nothing to be promoted. I merely had to determine objectively whether a certain condition was fulfilled or not, whether that, as far as Schrader is concerned, -- I know that Dr. Schrader in the course of years often complained how little support he got from Dr. Hoerlein in his laboratory. As far as the workers, when he apparently needed, were concerned, they were not granted to him.

Q Do you know how many associates Schrader had in all this time?

A I know only one of Dr. Schrader's associates. That's Dr. Lorenz. I do not know and I don't believe that he had any other academic associates.

Q Do you have any knowledge of your own as to Prof. Hoerlein's attitude toward the problem of chemical warfare agents?

A I know that from time to time Prof. Hoerlein said, and I have heard this from him personally, that he had an uncomfortable feeling about the chemical warfare agents as he was the head of a world-famed pharmaceutical firm with international ties and connections, and he said repeatedly his duty was to create drugs and substances for healing and not for destruction. For this reason he promoted my industrial hygiene work which had nothing to do with chemical warfare. From the point of view that one should prevent damage as much as possible.

Q Can you give me any more examples drastically showing Prof. Hoerlein's attitude in this field?

A It's shown drastically by the assignment which I mention in my affidavit, that in 1942 I was sent to Dr. Ambros and was instructed to tell him expressly that he should use his influence at headquarters to prevent the use of chemical warfare agents.

DR. HELME: Thank you very much. No further questions.

THE PRESIDENT: Any further cross examination?

BY MR. DRISCHSEL:

Q Drischel for Ambros. Mr. Cross a little while ago you were speaking of a schedule given you by the OKH. Was this affected by the special obligations to secrecy to which you submitted by several signatures? You have mentioned two?

A I was obligated to keep strict secrecy on all questions in this field.

Q That included the substances mentioned in the schedule?

A What did you say?

Q I said, the substances mentioned in the schedule.

A There were no substances mentioned in the schedule.

Q What was mentioned in the schedule?

A It stated according to what methods the substances were to be listed but it didn't mention any specific substances.

Q Did you inform the individual plant of this schedule?

A I cannot remember that. I believe not.

Q Then, if the plants sent products to you they could not know in advance into what classification the product might fall?

A In my opinion they could not know that.

Q You have already said that and I should like to have it specifically stated with regard to ethylenimine which you mentioned and fluorene alcohol. These substances were tested for general industrial hygienic purposes and not for any specific reason?

A I should like to explain that. Ethylenimine and fluorene alcohol and related substances of fluorene alcohol were tested by me for purely industrial hygienic reasons and the examination was almost completed when the first discussion in 1935 with the Army Ordnance Office took place. And when I was asked to report my experience on highly toxic substances to the Army Ordnance Office, I was able immediately to mention the two substances ethylenimine and the fluorene alcohol series which were especially toxic. They had been tested for purely industrial hygienic reasons and had been sent to me by Ludwigshafen for such purposes.

DR. DRISCHSEL: Thank you. No further questions.

THE PRESIDENT: Any further cross examination? Any further direct examination?

MR. SENECHER: No re-direct examination, your Honor.

THE PRESIDENT: The witness will be excused from further attendance and the marshal may escort him from the box. What is your next step, Mr. Prosecutor, in the presentation of the case?

MR. SENECHER: It's the documents concerning Russia.

THE PRESIDENT: Very well. We are within three minutes of time for lunch and we will arise at this time until 1:30.

(A recess was taken)

AFTERNOON SESSION

THE PRESIDENT: The Tribunal, if you may pardon us, would like to direct the attention of counsel to the following statement, which is being made for the record and for the information of all counsel in the case. As soon as practicable after the conclusion of the Prosecution's case in chief as it relates to Count I of the Indictment, the Tribunal wishes to have a preliminary brief presented by the Prosecution for the consideration of the Tribunal. The brief should outline in succinct form the legal theory and contentions of the Prosecution with reference to the charges contained against the defendants. Appropriate references should be made to pertinent portions of the evidence with such comment upon the principal aspects of the evidence relied upon as the Prosecution may deem desirable at this time.

Similar preliminary briefs will also be desired with respect to each additional count of the Indictment, upon the completion of the evidence as to each count. It should be observed that such briefs are not to be in lieu of a more final exhaustive brief following the presentation of all of the evidence, both for the Prosecution and the Defense. For this reason the briefs requested need not be as extensive, in reviewing the evidence and the law, as the final briefs will necessarily be. It is the thought of the Tribunal that such a preliminary brief or legal memoranda with an exact outline of the Prosecution's principal legal contentions, related to the evidence which will have been presented by the Prosecution, will be helpful to the members of the Tribunal as they study and evaluate such evidence and as they consider evidence being introduced by the Defense.

At the proper time in the presentation of evidence on behalf of the Defense, a similar request will be addressed to counsel for the defendants. Copies of these briefs hereby requested from the Prosecution will be furnished to Defense Counsel for such comments or answering legal arguments as they desire to present on behalf of the defendants.

That concludes the statement, which we think is sufficiently clear

without any further amplification at this time. There is another procedural aspect of this case that the members of the Tribunal would like, if it suits your convenience, to discuss informally in chambers with a few representatives of counsel for the Prosecution and the Defense, and if that can be arranged it would suit us well to recess perhaps ten or fifteen minutes early this evening and to have two or three representatives from each side come to our chambers for an informal discussion of this matter. If there is any reason why that is not convenient, we should like to be advised of it at this time. I shall ask the Prosecution; will that suit your convenience?

MR. SPEECHER: It's suitable.

THE PRESIDENT: What say the defendants? Can you have two or three representatives there? (affirmation by defense counsel) Thank you very much. That will be immediately upon our adjournment for the day at approximately 4:15, as near as we can fit it into the evidence then being received. The Prosecution may proceed.

MR. SPEECHER: Your Honors, we will then go forward with the presentation of the documents in Document Book 64. The first document, NI-4971, is already in evidence as Prosecution Exhibit 15. This is a letter from I.G. signed by the Defendant Ambros to the Reich Ministry of Economics, in which he indicates that the only main question outstanding with respect to the future exploitation of the Russian Buna plants has to do with what use Farben can make or who shall be entitled to make use of the Russian manufacturing methods and experiences, and you may recall over on the next page, page 2, the Prosecution already made reference to that at an earlier time.

Farben, particularly in view of services rendered to the army and the German economy, thought that it would be unfair for any other agency of the Reich or otherwise to enter into competition with Farben by using any "know-how" or processes or techniques learned through the occupation and taking of the Soviet synthetic rubber industry. Copies of that letter

want to the Defendants ter Meer and Ambros.

The next document, NI-8736, may go in as Prosecution Exhibit 1186, with Your Honors' permission. It's a letter from the Defendant Ambros to Krauch's office, to Eckell whose name has come up before, and you here find I.G. asking the Krauch office, which apparently on this question has the final say, to support I.G.'s claim to have the exclusive rights to use this experience found in Russia. The next document, NI-7468, may go in as Prosecution Exhibit 1187.

DR. GATHE: Your Honor, may I just draw your attention to a question of translation in the document which has just been submitted, NI-6736? I don't have the English text before me and don't know how it was translated. "In view of your renewed commitment in Russia I request your early decision" "Einsatz" has been translated as "commitment". Would it not be better "activity"? The German text is "Einsatz in Russland".

MR. SPRECHER: We agree.

THE PRESIDENT: Very well.

MR. SPRECHER: Prosecution Exhibit 1187, which I just referred to, is principally interesting because it shows Farben's being ready, willing, and able to go forward with respect to three fields of exploitation in Russia. This is a letter from Borgwardt from the Sales Combine Chemicals to a certain Herr Grebe in which he notifies him of the location of three different types of plants in Russia and in each case — I am sorry, I made a mistake. Borgwardt wrote three letters, and they are addressed to three different people in Farben, and with respect to three different types of products Borgwardt forwards the locations of the factories producing these products in Russia and in each case says in identical language:

"I advise you to be on the alert when the places named in the enclosure are occupied by German troops, so that we can get in touch immediately with the competent authorities."

The first field of production is the manufacture of plastics, Kunststoffe, the next one is synthetic rubber, and the third white dyes. You will note that the list has been compiled from Vowi information.

The next document is NI 4963, and may go in as Prosecution Exhibit 1188. This is a letter from the defendant Ambros to the Economy Staff East in July of 1942. Although things had not been going too well for the German armies in Russia, there was still some advance, according to Ambros, and he thought that the question of staffing a number of factories might still come up. You will recall that Ambros had been writing similar letters during the course of the past year.

The next document is NI 4960, as Prosecution Exhibit 1189. We made a reference to this document in the opening statement. It is a report from one Dorrer to the Defendant Ambros, in which he states that a Dr. Eilers, who had made a trip into the Soviet Union, had found it impossible to get near the synthetic rubber plant, and therefore nothing was accomplished.

JUDGE MORRIS: May I inquire who Dorrer is? It doesn't seem to have any official signature. It is just signed Dorrer on the copy I have.

MR. SPRECHER: Just a second, Your Honor, and I will find out.

JUDGE MORRIS: You may proceed and answer my question later, if you wish.

MR. SPRECHER: Thank you, Judge Morris. We are not certain. He was a Farben employee, this was on Farben stationery, but we cannot place him more closely than that for the minute, but we shall try.

The next document, NI 4962, may go in as Prosecution Exhibit 1190.

DR. DRISCHTEL: Your Honor, Drischel for Ambros: Today I should like to repeat and explain the objection which I announced yesterday, against the probative value of all the documents on the Synthese Kautschuk Ost GmbH. I want to extend my observations on probative value beyond an objection as to relevancy and make a formal objection because this question seems suitable for the Court to give a ruling, on the legal question of the probative value of this whole complex. All of the documents which have been submitted by the Prosecution on this complex consist of negotiations, discussions, correspondence be-

tween I.G. and the Reich Government. Everything that has been discussed here is not legally relevant for the Prosecution, as they see the conduct of the I.G., for the following reasons:

First of all, the contents of the documents themselves. No agreements or contracts were concluded between the Reich and I.G., and the Synthese Kautschuk Ost GmbH was never founded and was never registered. All you can see in the documents is preliminary discussions regarding a possibility, that is what one could possibly do some day, and drafts were worked out, but nothing more. Secondly, even if the drafts submitted by the Prosecution had not remained merely drafts but had become agreements, then even these agreements -- which as I say were concluded -- would not be legally relevant, because they would not have contained anything on the subject of the charges against the defendants, which is plundering or spoliation, that is, an offense against property committed in an occupied country. Document NI 4975, which was discussed yesterday, that is in Volume 63, is a draft of a letter of the Reich Ministry of Economics addressed to the I.G., and it mentions that the Reich has taken note of the desire of I.G. "In the event of" if I may translate it, "If and when the alienation of the plant or plants by the Reich the I.G. could be given the right of preemption". Even this is not a definite promise, but merely a proposal. The Reich even made another stipulation, saying, "within the framework of what is possible from the point of view of national economy and politically". That really means "whatever we want". For what was then possible for the Reich politically and from the point of national economy depended solely on its subjective judgment. Thus the assurance is not really a promise at all, but merely a consolation.

Thirdly, Your Honor, as far as the documents speak of procedure and know-how, we cannot talk of an offense against property as the basis of the concept of plunder and spoliation. That would pre-suppose at least that some copyright law was in existence, a patent law or something of that sort, but nothing of the kind is mentioned in these

documents. May I also call your attention to this, Your Honor: One of my friends has just pointed out to me that the concept which I mentioned previously -- "Vorkaufsrecht" -- was not quite correctly translated. In the English I believe it is the "right of first refusal". That is what it means. It is a purely obligational legal concept which has nothing to do with property. If I may summarize, the Prosecution cannot, even with the documents offered so far, maintain or prove that all of the preliminary negotiations and discussions between the Reich and I.G. ever went beyond the stage of remote possibility, contact, proposal, etc. but that is not sufficient to give even the shadow or the appearance of a crime such as plunder and spoliation.

For these reasons and in order to prevent unnecessary waste of time during the rest of the trial, I raise the objection against the case of Synthese Kautschuk Ost GmbH being treated as a charge.

THE PRESIDENT: We will hear what the Prosecution has to say.

MR. DUBOIS: The question has been raised as to the relevancy of the documents contained in Document Books 63 and 64, which deal primarily with the allegations contained in Paragraphs 114 through 118 of the Indictment, under the heading: "Farben in Russia." It is perfectly true that the evidence which we have submitted does not establish a completed act of plunder and spoliation committed within the territory of the Soviet Union. In fact, as will be noted from the indictment and the introductory remarks by Dr. Newman, we do not charge, because we did not have such proof, that Farben actually acquired control of the Russian chemical industry or any part thereof, as was charged in the case of Austria, Czechoslovakia, Poland, Norway, and France. We do not think it necessary to argue at this point the question as to whether the language in Control Council Law No. 10, covers an attempt to commit war crimes and crimes against humanity. The provisions of Paragraph 2 of Article 2 of Control Council Law No. 10, particularly that provision which says that any person is deemed

to have committed a crime as defined in Paragraph 1 if he was connected with plans or enterprises involving its commission are, we believe, sufficiently broad to cover the crime of attempt, that we are familiar with in Anglo-Saxon law. But without arguing this question at this time, the fact that the plans and enterprises involving the commission of plunder and spoliation in Russia did not succeed, do not in any event take away from the relevancy of these documents, insofar as they show the motives of these defendants in the over-all program to secure economic domination of Europe. The charges under Count II of the indictment concern the participation by the defendants in a vast scheme of plundering property in occupied territories and countries, and it is charged that the means adopted were intended to strengthen Germany in waging its aggressive wars, to assure the subservience of the economy of the conquered countries to Germany, and to secure the permanent economic domination of the continent of Europe.

The allegations contained in Paragraphs 114 through 118 and the documents which have been offered in support of these allegations are, in our judgment, relevant in establishing the intent and purpose with which these defendants engaged in this program of exploitation of the resources of Europe. I might add that I believe the documents that have been introduced here today have been very illuminating on that score. What happened in Russia, even though, so far as we can prove, it did not result in actual acquisition of property in Russia, because of the resistance of the Russian army, is nevertheless, we believe, very relevant in establishing the state of mind with which the defendants engaged in the whole program of plunder and spoliation. It should also be noted that all of the allegations contained in Count II of the Indictment have been incorporated in Count I of the Indictment by virtue of Section 1 of Count I, and it is the contention of the Prosecution that the acts and conduct of these defendants with respect to Russia, which are described in the documents introduced in Document Books 63 and 64, constituted one phase of the participation by these

defendants in crimes against peace. We had planned and we certainly now will submit later to the Court a more extensive explanation than we have given to date of why the acts and conduct which have been described in Counts II and III of this Indictment constitute in our judgment an integral part of the planning, preparation, initiation, and waging of wars of aggression and invasions of other countries.

To sum up, irrespective of whether Control Council Law 10 covers attempts to commit war crimes and crimes against humanity, the Prosecution contends that the allegations in Paragraphs 114 through 118 are relevant to the general charge that the defendants participated in a vast program of plunder and spoliation of public and private property in Europe.

In addition we charge that the acts and conduct alleged in Paragraphs 114 through 118 constitute participation by the defendants in crimes against peace.

DR. DEISCHEL: Your Honor.

THE PRESIDENT: We will be glad to hear you further.

DR. DRISCHEL: Would you allow me, Your Honor, to give a short rejoinder to what has just been said by the Prosecution? The basic mistake of the Prosecution is that it seems to assume that the negotiations between I.G. and the Reich in these questions of the Synthese Kautschuk Ost already constituted an attempt of a punishable act in the sense of Control Council Law No. 10, plunder and spoliation. That is the fundamental error, that everything that happened between I.G. and the Reich did not go beyond the stage of mere preliminary acts, that is, not an attempt in the technical juridical sense. No attempt was made, but it remained in the preliminary stage, and this distinction between "attempt" as the commencement of a punishable act, and preliminary preparations outside the latter is also made by Anglo-American law, as far as I am informed. It is, therefore, completely irrelevant what the subjective intentions, if any, of the gentlemen of I.G. were, because not intention is to be punished but any acts which

may have taken place, and, as the Prosecution has said, there was no act.

In conclusion, the conduct of I.G. on this point "East" cannot be used as an illustration for other events in the occupied territories. If allegations to this effect are made for events in other territories, let them be proved there. To draw conclusions from preparations which cannot be punished is not justified either legally or factually in this case.

THE PRESIDENT: May the Tribunal inquire of the Prosecution if it would be possible to temporarily abandon the presentation of this evidence and go to another subject without disturbing too much your routine and procedure for the balance of the day?

MR. SPRECHER: Your Honors, there are eleven more documents left, I believe.

THE PRESIDENT: What the Tribunal had in mind, aside from these eleven documents that you say are in the book that have not been offered, could you leave this book and go to another subject without occasioning a delay in the course of the trial?

MR. SPRECHER: We can proceed to another document book and to another topic.

THE PRESIDENT: Very well.

I may say that the Tribunal feels that this matter is of sufficient importance to warrant more thorough consideration than we can give it from the bench and in the course of the trial, and if the Prosecution can aid us by going to another matter, we shall ask you to pass the balance of this book until we have had an opportunity to exchange views and reach a conclusion with respect to the objections urged by the Defense. We will undertake to do that without unduly delaying your presentation of the remaining documents in this book. We will undertake to attempt, at least, to advise you on next Monday as to what our conclusion is concerning this matter.

Just one further observation concerning this matter: Would it be possible for Counsel for the Defendant and Counsel for the Prosecution to give us, informally, a copy of your remarks? We observe that Counsel for the Prosecution was apparently reading, and we were not so sure about Counsel for the Defendant.

Did Counsel for Defendant have your remarks reduced to writing?

DR. DRISCHEL (Defense Counsel for the Defendant Ambros): No, Your Honor, I did not.

Your Honor, my objection had not been put down in writing, only a

few notes, but I can submit to the Court a short summary of my observations.

THE PRESIDENT: That would be very helpful to us, because we would like to have before us very definitely and concretely a statement of the positions of the parties. We do not mean for you to file a brief for the record or anything of that kind, but if we can have the benefit of a short, terse statement of your views, we would like to have it. Of course, when it comes from you we'll have to arrange to have it translated unless you can arrange to give us your views in English. You may do as you please about that, but if it inconveniences you to put it in English, we will have it translated.

DR. DRISCHEL: I only believe, Your Honors, that that won't be possible before Monday morning.

THE PRESIDENT: Could you do it by Monday morning?

DR. DRISCHEL: By Monday morning....

THE PRESIDENT: We're just advised that the transcript will be available to us by tomorrow noon, and if, by Monday morning, you wish to add anything to your remarks that will not appear in the transcript, we will have then the transcript and will consider the presentation on the record, and anything that you may wish to add to it by way of supplementation.

Thank you very much.

DR. DRISCHEL: Would it be possible, as an exceptional measure, that we too could get the transcript by tomorrow, I mean the English text? Normally, we only get it a couple of days later. So that, in my written statement, I would not repeat myself.

THE PRESIDENT: If the Tribunal can have the transcript tomorrow noon, there is no reason why the Counsel for Defense and the Prosecution may not have it. However, you may have to deal with it in English. I don't know what the facilities are for the German transcript.

DR. DRISCHEL: Thank you, Your Honor.

MR. SPRECHER: Mr. President, we would have only one more brief

remark to make that brings up an entirely additional ground, with respect to the relevancy of these materials. Underneath Control Council Law 10, Article II, Paragraph 2, any person is deemed to have committed a crime if he "was a member of any organization or group connected with the commission of any such crime." Some of the documents we are about to come into deal with, for instance, the Reich Group Industry and the Economic Group Industry, which, as you will see, had a considerable amount to do with the entire pattern of spoliation in the Soviet Union, quite beyond the mere matters we have brought up here, where we haven't been able to prove the ultimate and final success with respect to the spoliative intent shown, and some of these defendants were members of those organizations.

We will then pass, Your Honor, to the case concerning Norway.

DR. NEWMAN: In our Norwegian case, the Prosecution will show how the entire Norwegian economy was to put at the service of the German war effort, more particularly, at the service of the German Air Force, and how this opportunity was also being used for transforming the German minority interests in the most important Norwegian industrial enterprise, the Norsk Hydro Corporation, into a majority.

JUDGE MORRIS: May I inquire what book this pertains to?

DR. NEWMAN: I'm sorry. That is Book 65.

We shall consequently divide our material to be presented into two different parts. First, Farben's engaging, together with the Nazi Government, in erecting new light metal plants, using the Norwegian facilities on the largest scale, and, second, the transactions which led to the creation of the German majority in Norsk Hydro, outstanding among the German group being I.G. Farben. As an introduction to both parts, we present, as Prosecution Exhibit 1191, the Norwegian New Order, NI 7785, a letter written by Frank-Fahle and Terhaar to the members of the Farben Vorstand concerning Norway proposals by I.G. in connection with peace plans. I would like to remark here that on Page 1 of the German stencil, the signatures should read Frank-Fahler and Terhaar,

rather than Ter Meer and Frank-Pohle. This New Order document consists of four parts, all of them gathered under NI number 7784. First, an accompanying letter, as I said, signed Frank-Fahle and Terhaar, of November 8, 1941. Then, the Norway proposals by I.G. themselves, the so-called New Order, which fills the first twenty-eight pages of the English stencil and, finally, Ilgner's letter to the members of the Vorstand where Ilgner submits additional suggestions, dated September 15, 1941. These additional suggestions are enclosed with Ilgner's letter.

In view of the presentation of the French New Order, presented by Mr. Amchan in Book 51, we can deal rather summarily with this New Order Norway. The basic idea appears from Page 2 of the English book - that is Page 3 of the German book, in the end, - I quote:

"We should therefore like to limit ourselves in the following to outlining those matters which affect our interests and our proposals connected therewith, insofar as they concern relations connected with trade policy and the elimination of difficulties hindering the export to Norway of our products. It may be said in this connection that the incorporation of Norway into the system of continental European economy, headed by Germany, by severing the former closely interlocking relations in trade policy of Norway and England, by ending the division of Norway's foreign trade among numerous markets, which is contrary to the country's economic structure, will at the same time ease the German export situation. The readjustment to German needs resulting from this incorporation is a sign of structural change in the Norwegian economy and foreign trade."

The first part thereafter deals with proposals concerning the fundamental structure of German-Norwegian trade relations. May I particularly refer, without quoting it here, to the first four paragraphs, numbered 1, 2, 3, 4, on Page 3 of the English book, which is Page 4 of the German book.

Turning to Page 5 of the English book and Page 9 of the German, I

would like to quote from II:

"We are taking the liberty of making the following suggestions:

"(1) The construction of new plants for the production of dyestuffs and intermediate organic products, as well as the planned resumption of production at the plant operated up to 1936 by a certain Norwegian corporation, should in principle, be subject to licensing.

"(2) Imports of German dyestuffs, auxiliary products for dyeing purposes, and textile agents, should be duty free. Norwegian imports of said products from other countries should be barred by the introduction of a suitably high protective tariff (at least 30% ad valorem)."

May we also refer, without quoting it here, to Page 7 of the English book - that is Page 11, Page 12 and 13 of the German book. The first paragraph is still II and the last paragraph on this page.

The next fourteen pages of the English book contain charts showing, in the first column, about sixty different products and, in the last column, Norway's production capacity, while all the columns in between, marked by the letters A to E, contain Farben's proposals as to preference tariffs for German merchandise, proposals for tariffs to be established between Norway and other countries, proposals for German quotas and import licenses with regard to Norway, proposals regarding the Norwegian market and Norwegian exports, and finally proposals concerning compulsory licenses by German authorities for new construction and expansion of plants. I am not going to quote here in any detail. A thorough study of these fourteen pages will show that a complete colonization of Norway was planned in this New Order.

We shall then find suggestions as to the pharmaceutical industry, from Page 23 of the English book to Page 24. I would like to quote the first paragraph under II. That is German Page 34, English Page 23:

"Because of the leading position occupied by the German pharmaceutical industry in relation to the Norwegian imports, we consider the realization of the following demands not only as justifiable but also as absolutely necessary especially in connection with the new economic order in

Europe. The Norwegian market shall remain absolutely open to free competition of the German pharmaceutical industry."

In the field of photographics, that is Page 25 of the English book and Page 40 of the German book, Farben states that it has never succeeded in shaking the extremely strong position of the Anglo-American Kodak and that for the future development of the business in Norway "it would be desirable to introduce preferential tariffs for German products in order to eliminate foreign competition."

Now, in view of Farben's attitude with respect to the French chemical and pharmaceutical industry, evidenced by documents which we shall present as part of our French case, I would like to stress Farben's statement here, on Page 27 of the English book, at the end, and Page 45 of the German book where Farben says:

"After the war our agreement with Norsk Hydro will again be in effect, so that we shall have the assurance for the years to come as before that the distribution of Norwegian nitrogen production will be carried out in accordance with the nitrogen policy which is directed by Germany."

So here Farben takes the position that the war may have suspended but has not eliminated its agreements with firms in occupied countries.

With a view to the erection of large plants in Norway to which we shall now turn, the prosecution also emphasizes one phrase from the report attached to Ilgner's letter already referred to, page 31 of the English book and page 53 of the German book, first paragraph. May I, before quoting, refer Your Honors to the errata sheet by which the last part of the first paragraph on this page has been corrected. As far as the errata sheet goes, I shall quote therefrom. I quote:

"The investment of such considerable sums in the new Norwegian industries can only be justified on the German side if the main part of the accruing production is really placed mainly at Germany's disposal on favorable terms. An international agreement should consequently be brought about, binding the Norwegian government to refrain from obstructing the exportation of the products manufactured in these new plants through export duties, quotas, etc. It is true that Norway does not at present impose export duties, but they could be introduced at any moment and would then apply also to the products manufactured in the new plants."

I now turn to the errata sheet.

"In the absence of international agreement of this kind, which is possibly badly dependent on these products (strategic importance of light metals for the war) would have to put up with these export duties."

How the entire Norwegian economy, more particularly, Norway's most important asset, its water power, was to be put at the service of the new light metal plants is shown by this same page 31 of the English book, and I quote from the third paragraph therefrom, which is page 53 of the German book:

"As the operation of the light metal plants, which are the vital importance to Germany, depends on the supply of the necessary power at a reasonable price, it is intended to conclude long-term contracts - e.g., for a period of 99 years - between the light metal plants and the electricity companies which are to supply the power. These contracts are for the purpose of securing the following:

"1. The power plants will be bound to offer their available power in the first place to the light metal plants.

"3. There must be no cessation or considerable decrease in the production of power without the consent of the light metal plants. If necessary, the light metal plants will be entitled to take over control of the power plants themselves.

"Furthermore, the Articles of Incorporation of the power companies must contain a proviso to the effect that resolutions relating to the aforementioned points (Priority for supplies for the light metal plants, increases in price and cessation of power production) can only be made by a majority having the consent of the German minority participation in the companies."

We are not turning to our next exhibit which is 1192, NI 6089. Your Honors will notice that the New Order which I just quoted was made one to one and a half years after the invasion of Norway started, but what was planned in Norway is, if possible, even more bluntly expressed in a report of the 27th Meeting of Farben's own metal sub-division on April 16, 1940. That is, about one week after the assault on Norway. Out of the ten page report, we have inserted in the English document book just one phrase which I would like to read:

"In Norway all factories and mining concessions...."

That's a report made by Farben's Director Meyer-Kuester. This is page 35 of the English book and page 71 and 72 of the German book:

"In Norway all factories and mining concessions owned by British or French nationals will be sequestrated and the Norwegian economy will be mobilized to work for us."

Our next two documents were already offered in evidence as Exhibits 585 and 586 in Document Book 30. This is NI 8034 and 8033. 33 and 34. In view of their importance they have been reinserted in our Norwegian book. As Your Honors will recall, from the documents, the erection of light metal plants in Norway is being discussed here in all detail.

These two documents, together with our next nine documents, all refer to the organization of a new corporation in Norway, later entitled Nordisk Lettmetall, that is, Northern Light Metal, which was to produce light metal on the largest possible scale for the German Reich or Air Force as purchasers of the product, or the main part of it and which, for this purpose, was to use the facilities of Norway's most important industrial enterprise, Norsk Hydro. We do not propose to quote from these documents in detail. They evidence, among other things, the fight between I.G. Farben and different agencies of the German Reich as to who should control this new corporation to be organized in Norway.

We now present our next exhibit, 1193, which is NI 8079. These are minutes of the 24th Meeting of the Farben Vorstand on February 5, 1941. It is our first document in this connection to show that the German Reich wished to acquire participation of its own in the new corporation to be organized in Norway for the production of light metal. It also appears that before such wish on the part of the German Reich became known, Farben had already planned the organization of a new light metal corporation, together with Norsk Hydro, in which Farben was to take over a 51% share and Norsk Hydro 49%.

Our next document again was submitted as Prosecution Exhibit 587. NI 81. In book 30, Page 71 of the English book. NI 8144. This document dealt with a discussion on February 6th 1941 in the Reich Air Ministry between representatives of Farben and the Air Ministry. We would like to stress, in this connection, just one phrase of this document. This is page 46 of the English book and page 94 and 95 of the German book. I quote:

"Dr. Koppenberg....."

He was Goering's plenipotentiary for the erection of light metal plants in Norway:

"Dr. Koppenberg concluded with a few words of special praise for Farben's achievements hitherto in the field of armament production, and

especially for the promptitude and speed with which Farben had always acted and constructed, without waiting for contracts to be signed."

Our next exhibit is 1194. That is NI 8147. A memorandum by Farben lawyer-Mayer-Megelin, relating to Farben's discussions with the Air Ministry concerning the new corporation.

Our next exhibit, 1195, NI 8145. It is another report on the meeting between the representatives of Farben and the Reich Air Ministry of February 6, 1941, how Norsk-Hydro, her prospective partner in the new corporation, was treated by Farben and the German Reich and how it had no voice in the discussion which concerned its very existence is best shown in this report. I quote from page 50 of the English book which is page 98 of the German book, about the middle of the big paragraph:

"Until the power plants in Moor - this was a new plant to be erected - are ready the firm Norsk-Hydro - Iv. A.S. is to provide current for the new installations, if need be by restraining its production of nitrogen."

(Newman) We then offer as Prosecution's Exhibit 1196, NI 8087, being a letter from Farben to the Reich Air Ministry, evidencing the license fees to be paid to Farben for all deliveries of magnesium to be paid to the new corporation, and from there to Farben, altogether the German armed forces were to pay license fees up to 3 million Reichmarks yearly.

Our next exhibit is marked 1197, NI 8146. This is a comprehensive report by Farben's lawyer Mayer Wegeli, on the entire situation concerning Norwegian light metal of June 26, 1941.

In the second paragraph of this report, it is stated, and we are quoting this in order to show that the plans were quite open to Farben and to everyone. Mayer Wegelin says, page 54 of the English book and 104 of the German book, it is the second paragraph of No. 2:

"On May 8, 1942 the Reich Marshal,"

that is Goering,

"wrote to General von Hannecken", and now here by mistake it is said "Reich War Ministry", but "RWM" stands for "Reich Ministry of Economics",

If your Honors will kindly notice:

"Von Hannecken of the Reich Ministry of Economics informing him that the Fuehrer had given orders for the Norwegian aluminum capacities to be reserved for the requirements of the Luftwaffe", the air force.

Turning to page 2 of this document, page 55, I would like Your Honors to note another error there in the second half of the page, at the end it is said in brackets:

"Dr. Choinowski informed me that the plan for expanding production has in the meantime been raised to 24,000 tons annually".

It should read, "240,000 tons" rather than "24,000 tons".

Our next exhibit is marked 1198, NI, 8038. It is a contract between Farben, and the newly organized corporation, Nordisk Lettmetall, signed for Farben by Haefliger and Buerger, dated September 22, 1941.

We then offer Prosecution's Exhibit 1199, NI 8143. This is a

letter from Farben to the Reich Air Minister and Supreme Commander of the Luftwaffe, asking for a certain type of subsidies to be granted by the German Reich to the new Norwegian Corporation for the new plant.

The problem was that under the German law, or at least under the German practice, such subsidies were not granted if the plant in question was erected outside of the German boundary. We would like to quote from page 12, that is page 61 of the English book, and page 116 of the German book, the reasons Farben here gives for its application to receive subsidies:

"Since the excessive costs in Norway are, - as has been ascertained in the meantime, - so great as to make all industrial calculations impossible at the outset, even when considering all the requirements of war economy, the need has arisen for alleviating all those additional expenses which go back to the fact that the Heroen plant,"

that is the plant where the factory was erected -

"must be erected, in the interest of German armament, outside of the German borders, and in spite of all aggravating circumstances, must be built up with greatest possible speed."

The next paragraph again is very interesting since here Farben clearly admits that it had succeeded in getting together with the Reich agencies, the control of Norsk Hydro, so we are hereby anticipating our material for the second half of this presentation.

I would like since this document is just before us, to read the next sentence also, which is 62 of the English book, at the end of 116 of the German book:

"It must also be borne in mind that Nordisk Lettmetall, in spite of the Heroen plants being located outside of Germany, must be considered to be an enterprise under German control, since Hansa Leichtmetall,"

-the German agency which participated in the plants,-

"and we own two-thirds of the shares and also control the third stockholder, Norsk Hydro."

Our next seven documents then deal with the German group consisting of Farben and agencies of the German Reich, acquiring stock majority of the Norsk Hydro, at the cost of the French stockholders,

the original subscribers to Norsk Hydro, and who held the majority in Norsk Hydro, up to 1940.

We offer as Prosecution's Exhibit 1200, NI 8099, being a memorandum to Farben lawyer Kersten who—

I am sorry, your Honors, I omitted one document, and I would like to submit as document 1200, NI 8261. These are excerpts from the minutes of the 40th meeting of Farben. We have inserted in the English text No. 4 of these minutes only matters dealing with the Nordisk Lettmetall, and describing the somber end of this plant.

Now the next seven documents will deal with Farben and the German Reich Agency acquiring the stock majority of Norsk Hydro.

Our next document is 1201, NI 8089, a memorandum by Kersten, the late Farben lawyer, who was in charge of this matter. It is directed to Geheimrat Schmitz, and also to defendants, Krahch, ter Meer, Buerger, Haeflienger, Oster and Ilgner, where the original plan of how to acquire such majority is disclosed.

This original plan, as we shall show, has been carried out meticulously in order to organize the plant, --- in order to organize a new corporation in Norway for the production of light metals, I.G. Farben was to join efforts with the Reich Agency and Norsk Hydro itself, each partner to acquire one-third of the new corporation. That is what we have seen in the first part of our presentation.

This new corporation was to be organized on the basis of a buying capital of 45 million Norwegian Kronors. Since Norsk Hydro, the third partner could not put up these Kronors of its own, its capital stock was to be increased under Norwegian law, which by the way does not differ in any respect from American law. By such an increase in capital, the pro rata share of the old stockholders is to remain unchanged.

But there was a special provision in the Articles of Incorporation of Norsk Hydro, and I would like to leave this document for a moment and to present, as our Document 1202, certificate that is NI

10,163, an excerpt from the Articles of Incorporation of the Norsk Hydro company.

As it appears, therefore, there will be the possibility in Article 15 for the management of the corporation to disclose, in case of an increase of the capital stock, of 43 per cent of such new stock, without distributing the pro rata to the old stockholders, and I would like to read the last words from page 69, that is page 128 of the German book, where-under the management was entitled to dispose of such 43 percent in favor of others than the old stockholders, if such distribution, I quote: "was in the best interests of the company".

This was a first device of the majority in Norsk Hydro could change by way of increasing its capital stock, the 43 per cent of the stock to be newly created, should not be offered pro rata to the old stockholders but should be distributed separately.

As we shall see from the next document, such distribution of the 43 per cent in the best interests of Norsk Hydro was to be in such a way that one-third was given to I.G. Farben, one-third to the Reich Agency, and the last third to an unnamed Norwegian group.

In a memo to Schmitz it is said, on page 2 of the English stencil, that is page 66, of the English book, and page 125 of the German book, - and this brings us to the second device how the majority could be changed, - I quote from the beginning of the page:

"An attempt is being made to cause the French group - - to waive its preemptive right".

How Farben judged the protection of this so-called attempt is shown by this same memo, where the author goes on to say, and I quote again from the middle of this page:

"the new capital stock will accordingly be taken over as follows:".

I would like to point out as follows,--and then the part of the French stockholders is completely ignored. -- I would like to point out in this connection that the figures in this document and in the

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documents to follow are rather confusing, and partly wrong. They are not comprehensive at any rate at first glance, we have, therefore, intended to prepare a memorandum of our own, and to submit it to the court and to the defense. However, we feel, if your Honors will permit, that we can dispense with such a memorandum since we shall also submit, in the course of this presentation, an audit report by one of the German leading audit firms, of the year 1941, where it is clearly stated that the majority, to-wit, 53 per cent, were now in German hands and the original participants are listed, and this is also in accordance with another document, which we shall submit later, a memorandum by von Schnitzler and Ilgner and they also reach the same result, but if your Honors should feel later that such a memorandum would be helpful, we will gladly submit it later.

We are now offering 1203, that is NI 8086, again referring to the distribution of the new stock. This time addressed—a memo by Kersten addressed to the defendant Ilgner.

I would like to quote from the third paragraph of page 1 of the English stencil, that is page 71 of the English book, and page 1291 of the German book, in the middle of the page:

"During the conference, both the Norwegian and German parties expressed their desire to increase the influence of the Norwegian and German capital participation. In consequence, the possibility of making use of this provision of the statute, and of excluding the preemptive right was contemplated for 43 per cent of the old stockholders,"

so that some million Norwegian kroners would be "taken over by a Norwegian group, Nordag and Farben, each of them one-third.

I would like to point out that in the next paragraph there is a misprint again:

"In all other cases where the stockholders do not use their preemptive right the new stock is to be divided up in the same proportion. In the event that the French group should not be able to exercise its preemptive right, the shares allocated to the French group would not be divided equally between Nordag and Farben"

Now please we strike out the word, "not".

"the shares allocated to the French group would be divided

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equally between Nordag and Farben".

THE PRESIDENT: The Tribunal will rise for its afternoon recess.

(In recess until 1515 hours)

THE MARSHAL: The Tribunal is again in session.

MR. NEWMANN: We were just submitting Prosecution Exhibit 1204, NI-8088, another file memorandum by Kersten of March 28, 1941. There is a mistake at the right side at the top of page 73 which reads 3 March 1941. It should read 3 April 1941. So far we pointed out two devices by which the Germany majority was created. First by this irregular distribution of 43% of the new stock and then by excluding the French stock holders of the balance of 57% of the new stock with which we shall deal now.

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"As far as the increase of capital stock of Norsk Hydro is concerned, - " that is what Kersten says on page 2 of this exhibit. This is page 74 of the English and 133 of the German book. I quote from the middle of the page:

"As far as the increase of the capital stock of Norsk Hydro is concerned, Koppenberg advised that President Kehrl - "He was in the Ministry of Economics - " convinced him at the meeting that on the basis of the negotiations conducted by Dresdner Bank in Paris, there is a possibility to use the envisaged increase of capital of Norsk Hydro for creating a German majority. In his opinion, this possibility should be utilized in the German interest. The discussion based on this directive had the following result." I am now omitting No. 1 and going to 2: "The negotiations with the French group which is represented by the Banque de Paris et des Pays-Bas, will be conducted from now on

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by Dreschner "Bank and Farben jointly".

And may I turn back to the preceding page 73, there another misprint which I would like to correct. That's page 73 of the English text and 132 of the German in the middle of the page and they say:

"During the course of the negotiations which were held with the French group of stockholders of Norsk Hydro about this, it became known that the Viag --" and they are now referring to the German Reich owned "Viag, that stands for United Industrial Corporation but by mistake they say (vereinigte Industriegesellschaften) or Vergasungsindustrie Poisoning Industries.)

This should be stricken out. The main argument advanced against the French stockholders was that the Germans would just proceed to grant the license in order to pay for the new stock the necessary amount of Norwegian crowns. This refusal was more the conspicuous in view of the fact that as this same document showed at page 75 of the English Book and 134 of the German, No. 4, the same document here shows the French stockholders had credit balances in Norwegian crowns arising from dividend credits which had accrued to them. This memorandum again is signed by Kersten and the distribution list appears on page 75 that is the last page of the English book.

Our next Exhibit 1205 is Document NI-1278. This is another report given by Ilgner, a record of the 40th meeting of the Commercial Committee presented here only because the list of participants attending this meeting.

We then turn to Document 1206. That's NI-8036, a letter of the German Aero Bank to the Military Governor in France of 3 September 1941 concerning the price to be paid to the French stockholders for the pre-emptive rights. The file note includes this letter and it is the same number. It's rather informative and I would like to quote from page 79 of the English book which is page 139 of the German. The second paragraph on this page refers back to No. 2 where

they say at the top of the page:

"Purchase of the rights to subscribe for the remaining Norsk Hydro stock now in French ownership." They say in the second paragraph:

"The transaction described under 2 will be concluded and carried out, with the agreement of all parties concerned, that is RWM, RLM, Dresdner Bank, I.G. Farben, Hansa-Leichtmetall and Aero Bank, that is a German Reich Agency by us on behalf of the interested parties, that is, I.G. Farben and Hansa-Leichtmetall."

I would also like to quote from the middle of the page the rather sanctimonious reasons given by the bank for excluding the French, that the :

"Negotiations hitherto conducted by the Dresdner Bank, Dr. Pilder with the Banque de Paris it was thought -- " now, may I ask your Honors to replace the word "commission" by the word "order. Commission is a mistake here. "It was thought that the order to purchase the stock rights should be prefaced by a statement by the party giving the order to the effect that in consideration of the grave difficulties which existed, the Bank had decided to appear as the purchaser of the French-owned stock."

And again in the next big paragraph, second half:

"The shareholder also has the alternative, if he does not himself wish to subscribe for new shares, of selling this stock right parties. The main difficulty encountered by French purchasers in subscribing for new stock will, as already mentioned, be the fact that Norwegian crowns will not be available to French purchasers for paying of the stock for which they have subscribed."

We then offer Prosecution Exhibit 1207 which they have subscribed."

We then offer Prosecution Exhibit 1207 which is Document NI-8449. This is the report already mentioned before by the Deutsche Revisions - und Treuhandgesellschaft" concerning the distribution of the North Hydro stock after this transaction took place.

It's shown on page 82 of the English book and page 142 of the German book.

It results in a 55% majority for the German stock holders, I.G. together with I.G. Chemie - having about three-fifths.

We will also mention our next document 1208. That's NI-2712. It's a statement by the defendant von Schnitzler and Ilgner co-signed by Dr. Bachem, at that time a Farben employee in Ilgner's department of August 12, 1945 addressed to Mr. Weissbrodt -- the interrogator.

May I ask your Honors to turn to page 3 of the English text, seven lines from the bottom. Here again is a misprint which must be corrected. I would like to read from the last part of this page 3. That's page 87 of the English book and 146 of the German book:

"Especially the French stock-holders of Norsk Hydro were in a difficult situation; they were not in the position to exercise their subscription rights, as there was no clearing between France and Norway to facilitate the necessary payments. This situation was in consequence of the war, that means, in consequence of the measures taken by the German government and in this way the French shareholders acted under this pressure of the situation." Now, they say why the French shareholders did not" -- instead of the word "like" we should say the word "use". That was corrected in the original text.

On page 6 of this statement as I already mentioned, von Schnitzler and Ilgner gave approximately the same distribution; that is page 90 of the English Book and 149 of the German book. They gave approximately the same distribution of the Norsk Hydro as the German Treuhandgesellschaft.

Our next three documents are affidavits by the defendants Ilgner and Oster and by Farben Lawyer Mayer-Wegelin and may I invite your Honors' attention to the fact that the Ilgner affidavit was part of our Russian book which we have at the request of your Honors skipped today, so we shall present it here for the first time and give it NI-No. 1209. May I also mention that by inadvertence the stencil of Ilgner's affidavit, page 95 to 97 of the English book, has under-scoring of the words and entire phrases which were not contained in the original copies and should be ignored.

The next affidavit is defendant's Oster's; Exhibit 1210, NI-6762 and the last affidavit is Mayer-Wegelin's, a Farben lawyer. That's prosecution Exhibit 1211, NI-8582.

Our last document in connection with the Norwegian presentation is Prosecution Exhibit 1212, NI-10641. This is a judgment of the French Court, the Tribunal de la Seine, of which I will ask your Honors to take judicial notice. This judgement deals with the transactions we just discussed and it declares them null and void as acts of spoliation. The French used the same word as we do "spoliation", on the strength of the inter-Allied declaration of January 1945 and 1943 which is already in evidence in our Austrian book. That's book 52, Prosecution Exhibit 1051.

THE PRESIDENT: Who were the parties to the litigation that resulted in that judgment, if you know?

MR. NELSON: The parties to this litigation are the Norsk Hydro -- the plaintiffs here were the French stockholders who had lost their subscription rights.

THE PRESIDENT: I wanted to know whether or not the defendants,

any of these defendants or Farben were parties to that litigation.
You don't need to burden yourself to answer it now.

MR. NEWMAN: I think that the plaintiff was not Gerthoffer -- and I would like to correct the index as to this document where the wrong date appears. That is page 5 of the English book and the date of this decree and should read May 25, 1946 rather than 1940.

JUDGE MORRIS: Mr. Prosecutor, this is a judgment of the French Court, is it, and not merely the application of somebody?

MR. NEWMAN: Now, that's the judgment, as your Honors will see from the certificate by Mr. Gerthoffer at the end of our book 108 -- that's the prosecutor of the Tribunal de la Seine. That's a copy of the order issued by the President of the Civil Court on 25 May 1946 declaring null and void the transfer to the enemy for his gain, etc.

JUDGE MORRIS: I see. Thank you very much.

DR. GIERLICH: Gierlich for Geheimrat Schmitz. Your Honor, I intended to say something about the judgment of the French Tribunal which was submitted as the last document but I should like to ask the approval of the Tribunal that I might defer my attitude and my statement until the prosecutor has given the information about the details of this judgment. Especially as regards the plaintiff and how the proceedings were handled in this affair. And if I may make a personal request I would like to know whether the decision was made after one of the participating shareholders of the German shareholders was able to state his view-point to contribute in establishing the truth. I should be grateful furthermore if the prosecution could state their attitude whether and in what manner these proceedings affects Farbenindustrie or the defendants in this trial. After the information that the Tribunal has requested and the information that I requested has been given I should like to be permitted to make a final statement in regard to this document.

THE PRESIDENT: The only purpose that the President had in asking the prosecution who the parties to this judgment might be was that

it occurred to him that unless there is some notice to the defendants, unless they were bound by the proceedings or unless they acquiesced in it it would be of very doubtful probative value. It isn't comparable to the situation that frequently arises in Anglo-American law where one party has had his day in Court and is therefore precluded denying what has been determined by a competent Tribunal. If that is not true and if there is none of the aspects of that present, then my own personal thought was that this is just a bit of surplusage. If there's some probative value aside from it being an estoppel I would be glad to have the views of the prosecution on it.

MR. AMCHAN: I think we will defer a more direct reply until we have occasion to examine that particular document in more detail. If I understood your Honor correctly I assume your Honor had in mind the document what we call as res adjudicata and I would prefer to withhold discussion as to our view as to the probative nature of this document if it would come strictly within our views of res adjudicata but, as I say, I much prefer to examine it more closely.

THE PRESIDENT: That probably will be the most happy solution for the immediate problem because that will save the rights of the defendants to make their views on the subject also. Very well.

DR. VON KELLER: Dr. von Keller for the defendant von Schnitzler. Before Document Book 65 is completely submitted I should like to point out that the document NI-2712 which is Exhibit 1207 -- correction, 1208, was not written by the defendant von Schnitzler but he only signed it, with the remark: Read and approved as correct according to my best knowledge and belief.

THE PRESIDENT: Does that appear in the exhibit?

DR. VON KELLER: Yes, Mr. President.

THE PRESIDENT: Very well, then, that would go to the weight to be attached to the document and we are very glad to have it called to our attention.

MR. ANCHAN: We are about to start the presentation of the proof, of spoliation relating to France, beginning with the spoliation in Alsace Lorraine, being document books 61 and 62.

The particular paragraphs of the indictment charging spoliation as to Alsace Lorraine are set forth in the paragraph numbered 111, that is at page 84 of the edition you have.

The charges are rather brief: It states:

"The German Government annexed Alsace Lorraine and confiscated the plants located in this area were the dye stuff plants."

And they are identified as being in Mulhouse. I may call it Mulhouse occasionally but I am informed it is "Muehlhausen". "Among the oxygen plants located in this area were the dyestuffs plant of Strasbourg-Alsace and one in Diedenhofen, and the charge is that Farben acquires these plants from the German government without payment to or consent of the French owners. Those documents will relate to the acquisition by Farben of these three plants and they will disclose one general pattern which is common as to each, namely that the German Government when it occupied Alsace Lorraine by a series of decrees provided that in seizing the property of French nationals located within its territories, knowledge of those decrees was known and communicated to the defendants. Notwithstanding such knowledge they directly negotiated with the German authorities, first to lease these various plants, and the documents will disclose the negotiations and lease agreements, and in those lease agreements rent is paid and payable to the German authorities. In those lease agreements are usually provisions providing for a right of a first refusal in I G Farben as lessee and through various proceedings we find finally a transfer and sale of these properties to I G Farben, the consideration going to the German government and in one of the cases in the contract of sale is a recital, as a matter of fact, I think it appears in most of them, a recital of the authority of the sale, by the German officials, and in that recital, he states that the property has been seized pursuant to the decrees of the German government and such seized property transferred and

sold to I G Farben. Now the first three documents in book 61 set out -

THE PRESIDENT: Is it the view of the Prosecution that it amounts to spoliation where the property was seized by a responsible sovereign and then leased or sold to citizens of that country who had knowledge of the circumstances under which it was taken in the first instance?

MR. AMCHAN: Yes, it is. In one view, the Hague Convention provides, as we called to your attention in our opening remarks, that private property should not be confiscated.

THE PRESIDENT: It is not clear to us, in the first instance at least Farben, and these defendants as the instrumentality of Farben, as you say, seized the property in the first instance?

MR. AMCHAN: No. The claim was made by the German government and with the knowledge of such seizure and confiscation they participated in the acquisition and in our view within the Control Council Law that amounts to participation in the confiscation of property in violation of the rules and customs of land warfare.

THE PRESIDENT: Is there any claim that the rentals paid or purchase price paid for this property were inadequate and unconscionable within themselves?

MR. AMCHAN: I will put it this way: We have made no allegation with respect to that as to these documents; maybe in other parts of the case that may appear. In our view that is irrelevant. The offense is committed when the rightful owners are deprived of their property and if the German Government confiscates the property - the private property - of French nationals, Farben with knowledge of such confiscation coming in and acquiring it from the German government, that we say is the offense, especially when there was knowledge on the part of Farben that the consideration for the lease and the purchase does not go to the owners whose property was confiscated.

THE PRESIDENT: Please understand, I am not trying to express an opinion, I am just trying to get your views. Just one thing further along this line, what would be the limitation as to how long a time the rule you

are relying upon would obtain? Suppose a country is an aggressor, goes into a neutral country and seized property and retains it for a long, long period, would there ever come a time when it could part with it legally?

MR. AMCHAN: So long as the Hague Convention governs the situation and the IMT has ruled, as we understand it, so long as there are armies in the field the Hague Convention applies, and within the rule as announced by the IMT, within limitation of time, the rules of warfare as announced by the Hague Convention apply; and the facts with respect to Alsace Lorraine relate to the period where the IMT found the rules of the Hague Convention were applicable. That at least is the position of the Prosecution with respect to this charge.

There is an additional observation that we should very seriously like to have Your Honors consider. When there is a finding by the IMT that this was a war of aggression committed by Germany, which finding we think is binding on this Tribunal, the aggressor is entitled to no rights or privileges or to claim any benefit under the Hague Convention, so that starting with the proposition that Germany is guilty of a war of aggression, they can claim no rights to any property which they so unlawfully acquired under international law. In that respect the time element may not be material. I only mention that as an additional thing; even if we take the narrow limitation that the Hague Convention applied, so long as there is an army in the field, on that premise the facts apply. And then we suggest the further observation I have just made. We will be glad to have any other questions Your Honors have in mind.

THE PRESIDENT: I haven't any more. I wasn't casting any aspersions on your theory. I was just asking to get some enlightenment, that is all I care for unless some one of my associates - you may go ahead.

MR. AMCHAN: It may not be necessary to consider the second proposal as to the consequences with respect to the application of the Hague Convention on the finding of Germany being an aggressor. We don't think that comes into play because the first proposition that I mentioned. We are assuming the application of the Hague Convention, and on this assumption

there has been a violation of the Hague Convention, a participation of these defendants in the confiscation of the property in Alsace Lorraine.

MR. SPRECHER: Mr. President, it has been very seriously argued and this is what we are trying to say, that after the Kellogg Briand Pact, an aggressor, once it takes the field, has no rights; the invaded nations have any right, because an aggressive war, after the Kellogg Briand pact, the main objective should be on any basis to see that the aggressor is vanquished, and that the nations attacked or all nations who wish to come to the relief of the nations attacked, may have any rights they can in order to beat the aggressor. However, that has not, so far as we know, been more than argued. All we are saying here is that there were still armies in the field, and therefore very clearly, at least with respect to the nations attacked by the aggressor, the rights of the Hague Convention apply. Now even if there were no longer armies in the field, we do think we could then take the further step which at least would be that no one could take from this aggressor the property so acquired, even if there weren't armies in the field. However, we are not forced to take that second step, and we think that the law probably should so be.

JUDGE MORRIS: Of course, Mr. Sprecher, I am wondering if we may not confuse the matter of rights to property with the other matter of committing crimes against property. It is the latter that we are dealing with here. I don't imagine there will be any argument, put up that seizure of property in an aggressive war by an aggressor, gives any one rights to the property. The question that arises here, of course, is what constitutes the crime of spoliation, then the next question which apparently we are colliding with here is what happens when somebody gets the property from the party who originally committed the crime of spoliation in taking it; is a second crime of spoliation committed with respect to the property, or does the act, the one who acquires it, make him a party to the original crime of spoliation. I am just stating questions here. I am not arguing with you.

MR. ANCHAN: On your Honors question I could see that there would be or there might be a difference between a case where a government unlawfully confiscated property and then parcels it out wholesale to veterans or something like that. I could see that case as being different from a case where the government illegally confiscates and seizes property and the purchaser actively engages with the government in negotiations to acquire that property, but there is a personal participation by the purchaser in going after the property and seeking to acquire it from the government who so unlawfully confiscated it. I could conceive of a difference in the first proposal of some aggressor nation which has some social philosophy that upon confiscation it will have a distribution to all of its nationals, that case may, I say, it may, create a different legal question. There may be, but we have no such case here. The point of our case is: these defendants originally sought this property from the German government knowing that the property had unlawfully been seized and had been confiscated.

THE PRESIDENT: Well, I think we have your view of it anyhow.

DR. GIERLICH: For the defendant Schmidt:

Mr. President, might I be permitted to have the Prosecution show us those passages in the judgment of the IMT which they have just now repeatedly indicated as the basis for their point of view in their discussion with the bench. I have understood your statement correctly. I, at least in my study of the judgment have so far not found any such passages in the judgment of the IMT.

MR. ANCHAN: Not that I think it is proper procedure that when the Tribunal asks our views, that we are to engage in a discussion as to the soundness of a view but since we have it here we will just mention the point. I will try to get the official reference in a moment. The quotation is from the judgment, and we will get the reference after we quote it, is:

"The doctrine" - I think they are referring to the doctrine of the

application of the Hague Convention on belligerency - " was never considered to be applicable so long as there was an army in the fields, attempting to restore the occupied countries to the true owners and in this case therefore the doctrine could not apply to any territories occupied after 1 September, 1939." The doctrine that is referred to in the IMT is to this effect: The argument has been advanced by some defendants in the IMT case that Germany was no longer bound by the rules of land warfare as far as Germany had completely subjugated the countries occupied by her and incorporated them into the Reich. They made that contention with respect to Poland, among other things, in the IMT, they argued in the IMT, as we understand it, having completely subjugated these countries, they were, therefore, lawfully in possession under international law and the war according to their contention having been over then the rules of the Hague Convention as to land warfare were no longer applicable, and that contention, as we understand the IMT was rejected in the quotation I have just read.

THE PRESIDENT: We have extended this longer than we should perhaps. Our only purpose was to try to ascertain if I could a definite statement of the Prosecution's theory and we have had the benefit of that observation. This would of course involve a matter which will, have a very thorough consideration at the proper time in the course of this trial. and the counsel for defense will be afforded a full opportunity of presenting his views. Thank you very much and you may proceed with your evidence.

Just let me say that if you can afford counsel for the defense a citation to the matter, I am sure you will do that without the intervention of the Tribunal as a matter of courtesy between attorneys.

MR. ANCHAU: The first three documents in book 61 set forth the basic decree and I think we will offer the first three documents in evidence.

As prosecution exhibit 1213, we offer NI 2567; as Prosecution Exhibit 1214 we offer NI 8484, and as Prosecution Exhibit 1215, we offer NI 8209.

Now with respect to Exhibit 1213, we call Your Honors' attention to page 2, which is page 2 of the German, under paragraph II, subdivision II. This is the decree about the appointment of an official administrator:

"For the duration of the official administration the rights of the occupant or proprietor or any other authorized representative or administrator are suspended."

On page 31 of the document book there will be another decree involving the territory or area of Alsace Lorraine and we will refer to that in a later connection. I ask your Honors just to note at this moment, at page 5 of the document book with respect to Exhibit 1214, we call your Honors' attention to Article I, Article II, which is page 4 of the German. In Article I:

"The Chief of the civilian administration in Alsace is authorized to confiscate French property for the Reich in pursuance of the valid provisions under which said property is subject to confiscation."

And then the rest of it. Article II.

"The confiscated property may be utilized. Such utilization will be effected according to the principle of an orderly business management with consideration shown for the special interests of the war economy and the new order in Alsace."

Exhibit 1215, which is a decree of 1943, will mention briefly. At that time, 28 July 1943, this decree indicated that property which previously the German administrators had sold, would no longer be sold. They stopped selling property at that time, in January 1943 by this decree, and the purpose of this decree at this time is to show that with respect to transactions we shall discuss later, you will see a special aggressive approach on the part of Farben, that with respect to certain plants they had already leased, they were taking certain active measures to come within the purview of this decree so they could acquire this property and with that respect I would ask Your Honors to bear that in mind.

Now the next three documents tell the entire history of the spoliation of dye stuff plant at Mulhouse. Now before discussing the dye stuff plant at Mulhouse I will ask your Honors to recall Exhibit 1051, which is NI 11252, the New Order for France. We have that in book 51, and in that connection, if Your Honors recall it, the Commercial Committee went through that rather thoroughly.

At page 169 of book 51, which was page 15 of that document, the New Order contains this provision with respect to dye stuffs in France:

"Thus Germany's share in the dye stuff supplies for French consumption dropped from approximately 90% for 1913 (turn over approximately 22 million goldmarks) to approximately 9% for 1927. In this connection, particular attention should be devoted to the fact that Alsace Lorraine with its highly developed dyestuff consuming industry and approximately two million inhabitants fell to the French domestic market."

Now the next page of that document, the New Order, which is page 27 of the original and 181 of the book 51, the new order in discussing concrete proposals for the dyestuff industry, refers by name to the dye-stuff plants in Mulhouse, the plants we are concerned with here, and they make specific limitations as to those plants, and the New Order states:

"that these firms" have been admitted since it is assumed that these firms will go back to the Reich with the return of Alsace Lorraine."

And on the next page, page 182 of the book 51, page 28 of that document, they continue with respect that to those named firms in Alsace Lorraine:

"We have written to the Reich Ministry of Economics under date of 13 July 1940 that we have placed a trustee for these companies at their disposal."

That was the New Order in August 1940 which they submitted to the French authorities.

THE PRESIDENT: If when you find a convenient place to quit - Very well then, please bear in mind our desire to see you in conference. Mr. Prosecutor, do you wish to make any announcements about Monday's session before we rise?

MR. SPRECHER: We should plan, Your Honors, to go on on Monday then with Books 61 and 62 concerning Alsace-Lorraine, and then we plan to bring in some witnesses during next week but we'll have to intersperse them along with the document books. We'll try not to interrupt the presentation of each phase of the spoliation materials too much and to try to finish off, for example, all the materials concerning Francolor at one time, but depending on the scheduling of witnesses, we'll be going on perhaps Monday and Tuesday with Books 57 and 58 on Francolor, and 59 and 60 on Rhone-Poulenc. In that connection you will need Book 51 for reference, and then we have, of course, also the balance of the documents in Book 64 concerning the Soviet Union, depending upon what determination Your Honor make with respect to the objection raised by the defense today.

Now I should announce the probable witnesses. We've given notice to defense center for the following witnesses, beginning with Monday:

Rudolf Diehls, Kurt Krueger, Nowack, and Gustaf Kuepper, and so that principally the defense can be advised and make plans appropriately, we think, that beginning about Tuesday, we'll be putting on some or all of the following witnesses:

Bannert, Hausen, Huehnermann, Reithinger, Rupp, Schmied-Loosberg, and Ehmman - that's Emil Ehmman.

That's all, Your Honor.

THE PRESIDENT: The Tribunal will now be in recess until Monday morning at 9:30.

(A recess was taken until 0930 hours, 27 October 1947)

Official Transcript of the American Military Tribunal No. 6 in the matter of the United States of America against Carl Krauch et al, defendants, sitting at Nurnberg, Germany, on 27 October, 1947, 0930, Justice Shake, presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal VI.
Military Tribunal VI is now in session. God save the United States of America and this Honorable Tribunal. There will be order in the Court.

THE PRESIDENT: Mr. Marshal, you will give a report with respect to the presence of the defendants.

THE MARSHAL: May it please your Honors, all of the defendants are present.

THE PRESIDENT: A few days ago the Tribunal stated that on this forenoon we would settle the question of whether or not there would be a session of the Tribunal on next Monday. It just came to the notice of the President that Dr. Boettcher, the chairman of the defense counsel, cannot be present this morning and we have concluded to pass that matter until he is present or until a later session. But early in the week we will determine whether or not we will have a session on next Monday — Dr. Nelte?

DR. NELTE: Your Honor, Professor Hoerlein, after the operation he has submitted to, is present again. However, I have to submit a letter of the surgical hospital concerning the present condition of Professor Hoerlein and I am handing it to the Secretary General. From this letter the Court can see that the scar has not healed yet and that it will be necessary to change the bandages several times and to check the wound. Therefore, Dr. Hoerlein asks to be permitted that he may for a few times, forego to attend the sessions of the court for several hours. Last Saturday, Professor Hoerlein returned from the hospital and today he is to submit to such a change of bandages. It would be sufficient, your Honor, if in those cases Professor Hoerlein would be excused during the

second half of the morning session, and in the afternoon at 1:30 he will always again appear and come back from the hospital.

I ask that the Court pass on this application and grant it. Today, if it meets with the approval of the Bench, Professor Hoerlein will leave at 11:00 o'clock and stay away until 1:30.

THE PRESIDENT: If counsel pleases, the certificate that you have handed to the Tribunal is in German and may we ask you to advise us if the request that you have made with respect to Professor Hoerlein being excused is in line and in harmony with the conclusion of the decision as stated in the certificate?

DR. NELTE: The physician has expressed his desire to this effect also in the certificate.

THE PRESIDENT: Very well. That's as far as we desire to make any inquiry. The record may show that the defendant Hoerlein may be excused at the morning recess for such period of time as is necessary for him to receive his proper medical treatment and the Marshal's office will take notice of this order and govern itself accordingly, and we shall be glad also, Dr. Nelte, to make similar orders from time to time as to proper treatment your client may require. The certificate will be filed with the Secretary General's office.

DR. NELTE: Mr. President, I have one request which I am submitting to you on behalf of the defendants. The defendants this morning have told the defense counsel that the temperature in the rooms in which they are now supposed to be is so low that it is impossible for them to work. Now, I would only like to express the request of the defendants to the Tribunal that it tell the competent authorities, that is, the administration of the prison, that they should raise the temperature of the cells as far as possible and bring it to such a level that the defendants have the possibility of working on their defense in an adequate manner.

MR. SPRECHER: Mr. President, I was just advised that some difficulties have arisen with respect to the heating system, but I have no

further notice.

THE PRESIDENT: The Tribunal has indicated how it feels about matters of this kind. It is always reluctant to interfere with the administration of the military authorities in the operation of the prison. The Tribunal recognizes, however, that it does carry responsibility to see that these defendants receive such treatment as is in accord with a fair and impartial trial of this matter. It may well be that the immediate trouble to which counsel has referred is mechanical and can readily be remedied. The President will see that the prison authorities are advised that the Tribunal expects that these defendants be accorded such treatment as shall not substantially interfere with their rights to a fair and impartial trial and ask him to do what he can to alleviate that situation. Beyond that we shall not take notice of the matter again unless counsel for the defense feels that the situation is such that it is necessary for him to call the matter to the attention of the Tribunal. This he may do if, in his judgment, the situation warrants.

DR. DRISCHEL: As I had informed the Court already I have the intention today only to give my short summary with regard to the objection in the case Synthese Kautschuk Ost and submit it to the Tribunal in German and in English via the Secretary General.

THE PRESIDENT: Thank you, counsel. The Tribunal is very glad to have this statement of yours. We do have, on our desk this morning, the transcript of the Friday proceedings but the Chair will see that the members of the Tribunal receive this memorandum and we can state to counsel that just as soon as we have had an opportunity to consider it, we shall pass on the question involved. It may not be anticipated that we will do that today but maybe tomorrow. Thank you, counsel.

DR. DRISCHL: Thank you very much.

THE PRESIDENT: Does the prosecution have any statement to make to the Tribunal?

MR. DUBOIS: May it please your Honor, I will take just a few minutes to bring the Tribunal and the defense up to date on the progress of the prosecution's case as we see it and some estimate as to the future. On October 8 we estimated 37 to 43 trial days. Since that time we had 11 trial days during which about 400 documents have been presented and 20 witnesses put on the stand, including 5 witnesses who made a considerable number of affidavits. It also should be noted that the cross examination of 10 witnesses were waived during that period.

Now, as to the balance of the prosecution's case, first as to documents, we have already cut out over 200 documents from our original estimate and we hope to be able to cut out even more. That would mean that there would be from about 725 to 750 documents yet to be offered, and the figure may even go below that. Now, to present those documents should not take over 7 trial days, if it takes that.

Now as to witnesses, at present we estimate between 85 to 95 witnesses offering testimony either through affidavits or directly on the stand, and that includes the 20 affiants who have given affidavits under Count 1 but who have not yet been cross examined, and we are trying to cut that figure down also by the elimination of as many affidavits as possible.

Now, with respect to the problem of witnesses, I would like to make a few comments. Originally we had planned to put a number of witnesses on the stand without presenting their affidavits beforehand, particularly in the case of witnesses with respect to matters referred to in Count 3. We have decided to change that procedure and in practically all cases we will submit beforehand affidavits concerning what these witnesses will be testifying to. Now subsequently, of course, that will raise a certain element of what you might call surprise, but probably in the long run we will take the best method anyway to bring out all the facts.

Procedurally, it cuts down our direct examination a great deal, but when it comes to the cross examination it is only natural, and this is not said with any reflection on defense counsel, but where they have the affidavit several days beforehand they will be able to pick out a lot more questions to ask the witness when he is put on the stand than if they did not have the affidavit, and the prosecution feels that under the circumstances we are entitled to ask that the cross examination be restricted as closely as possible to the contents of the affidavit. In that connection we have these suggestions. If there is any question in the minds of defense counsel as to the purpose for which we have offered an affidavit, they can come to us beforehand and discuss it, and secondly, there may well be in a number of these affidavits a number of facts which are more or less, from our point of view, side issues. For a number of reasons the attorneys for the prosecution were not able to control too fully the general scope of these affidavits and so it may be that in many cases facts are given that if the defense counsel came to us we could either reach an agreement if the facts were otherwise as to minor issues -- if it could be shown that they were -- or it might be in some cases we would be able to say, "Well, those particular facts are more or less immaterial to the prosecution and we can forget that part of the affidavit."

Now, this cooperation between defense and the prosecution is necessary to the procedure. In fact, in practically all cases with affidavits being submitted beforehand to defense counsel, we don't think it is unreasonable to expect that six or seven affiants can be put on the stand in one day. In practically all of these cases the witnesses have only given one affidavit and in many, if not most, of these cases the issue involved is rather specific and if in some cases it has become too general it may be by discussing it together we can agree to the specific purpose for which the affidavit is given.

Now, if it were possible to cross examine six or seven affiants a day, assuming that defense wants to cross examine the whole 85 to 95

witnesses, assuming we are not able to cut that any further and we think we will be able to, that would mean from 13 to 16 trial days for witnesses which would mean from 20 to 25 more trial days instead of the 26 to 32 on the basis of the previous estimate, this reduction being due to first, the cut in documents and secondly to the expeditious handling of witnesses that we think the presentation of affidavits should lead to. Next week, the first part of next week we will attempt to again give some estimates as to the future.

THE PRESIDENT: If counsel pleases, the Tribunal has been conscious for some time that the introduction of documents is taking too much time in view of what appears to be a long, long trial at the best. As counsel knows we had an informal conference with representatives of the two groups last Friday afternoon, and we are very happy to have this statement of the prosecution which gives us some definite idea as to how much time may be expected to be consumed in the presentation of the prosecution's case in chief. We are hopeful, in dealing with matters of this kind, that we can have the helpful and hearty cooperation of counsel and that it will not be necessary for the Tribunal to issue any peremptory orders.

For the time being we may say that we will rely and depend upon the representations that have been made by the prosecution, reserving, however, the right in the event we conclude that the proceedings are going too slowly, to impose some restrictions or limitations. What the prosecution has said suggests another problem which has not yet been acute but which is definitely in the near offing, and that is the matter of time consumed in the cross examination of witnesses. Certainly the Tribunal is not disposed to impose any restrictions or limitations that will preclude the defendants from having a fair and impartial trial. We feel, however, that if the prosecution does adopt the policy of using affidavits in many instances, instead of bringing the witnesses to the stand, that that ought to speed up the time required for cross examination. We know enough about the conduct of trials to know that when counsel for the defense is taken by surprise as to what a witness may testify

concerning, when they do not know what he may say until they hear it and then are confronted with the immediate necessity of cross examining, that it may be expected to require more time than if counsel has notice well in advance as to what the witness is going to say. The affidavits ought to provide that notice and ought to provide two things additionally. They ought to provide an opportunity for you to confer with counsel for the prosecution, to see whether or not the matters with which you are concerned may not be adjusted as by stipulation or agreement. It will also give you an opportunity to better organize your cross examination when you have the affidavit in your hands, either by limiting the scope of your inquiry or by agreeing among yourselves as to who shall handle the cross examination on behalf of all or at least a substantial part of the defendants.

As I have said before, so far as imposing limitations upon the matter of introduction of documents we are going to leave that door open for a time and see how the program works out and we likewise would like to do the same thing with reference to the defense concerning the cross examination of witnesses, but if perchance, time required is unduly extended it may be necessary in the matter of cross examination elsewhere than in this courtroom which we would be reluctant to do, or to require the submission of interrogatories which likewise we would hesitate to do. If we can have your cooperation in the same spirit that you have manifested before in this trial, and if we can maintain an amicable relationship of dealing between counsel for the parties, the prosecution and the defense, we feel that we can probably work this matter out without concerning too much time. If there are no other announcements the prosecution may proceed with its case.

MR. AMCHAN: We are ready to proceed, if your Honors please, with document books 61 and 62, the spoliation story in Alsace-Lorraine, and I believe it might be helpful to indicate to your Honors in estimates the time in which we will present these documents. I don't think it will exceed more than 45 minutes for these two books.

We're about to present the documents relating to the spoliation of the dye stuff plant at Mulhouse and the next three documents in Book 61 tell that story and we offer in evidence, as Prosecution Exhibit 1216, NI 4847; as Prosecution Exhibit 1217, we offer NI 8483; and as Prosecution Exhibit 1218, we offer NI 8482. Exhibit 1216 are the minutes of the dye stuff committee reporting on the lease of this plant. We ask Your Honors just to note the members that were present at that meeting. Exhibit 1217 is the lease itself, and we ask Your Honors to note the provision with respect to rent; that it's payable to the German government officials. Exhibit 1218 is the contract of sale. That document is revealing and tells the entire story of this transaction. Your Honors will note, at page 23, a recital of the authority of the government official for the sale of this plant, and, in that recital, he states that the documents evidencing his authority to make the conveyance are attached to the contract of sale and, at the end of the contract of sale, you'll see those documents, and in those documents is a very plain recital that he derives his authority to sell by virtue of the decree of the German authorities; that under such authority he has seized the property involved, and that this same property that he has seized and confiscated, he is now selling to these defendants, I.G. Farben. That is the story of the spoliation with respect to this chemical plant in Mulhouse.

The next series of documents deal with the spoliation of Oxygen and Acetylene plants in Alsace-Lorraine. The first two documents are preliminary matters with the situation as to the legal decrees in effect in Alsace and Lorraine with respect to acquisition, and we offer, as Prosecution Exhibit 1219, NI 8360, and, as Prosecution Exhibit 1220, we offer NI 8159. These documents are internal reports of Farben

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officials and they point out the difficulty in trying to acquire plants in Alsace-Lorraine because of the restrictive German regulations in effect in the territory. Exhibit 1219 at page 29 in the books - there's a reference to the fact that Farben's proposals to acquire the factories are the first of its kind in Lorraine. We call attention to this as indicating Farben's initiative in seeking the acquisition of these plants. With respect to these two exhibits we ask Your Honors to note that the defendant Jaehne becomes involved in these transactions.

Now the next two documents, relating to the Daelembhofen plant, involve the defendant Wurster, and we offer, as Prosecution Exhibit 1221, NI 8165, and, as Exhibit 1222, NI 8164. From these exhibits Your Honors will note that the defendant Wurster is brought into the matter and his participation in the negotiations is indicated. As Prosecution Exhibit 1223, we offer NI 8158. This is a copy of a memorandum from the Farben attorney who was handling these transactions and it's sent to the Central Office for Contracts in Ludwigshafen, which office was under the jurisdiction of the defendant von Inner-em. There's a typographical error we'd like to call Your Honor's attention to, at page 39. The date should be 21 January 1941 of that memorandum, and as Your Honors will read this memorandum it indicates the motive and intent of Farben with respect to the acquisition of this property.

The next four documents tell the story of Farben negotiating for the lease to acquire these plants and we offer, as Prosecution Exhibit 1224, NI 8157; as Prosecution Exhibit 1225, NI 8163, and as we pass to Book 62, as Prosecution Exhibit 1226, NI 8162, and as Prosecution Exhibit 1227, NI 8161. The document worth noting as respects the oral presentation is Exhibit 1225, NI 8163,

and you will note at page 44 a reference to a clause indicating that there is a understanding between the parties that I.G. Farben is to purchase this property when the regulations make such purchase permissible.

The next document is the lease agreement with respect to this plant and we offer it as Prosecution Exhibit 1225, being NI 8372. With respect to this lease agreement we ask Your Honors to please note.....

THE PRESIDENT: I am sorry, counsel, what is the document number and where is it located?

MR. ANCHMAN: Book 62. NI 8372, we're now offering as Exhibit 1228. It's the second page of your index.

THE PRESIDENT: 8362?

MR. ANCHMAN: 8372, I'm sorry.

THE PRESIDENT: Wait a minute. I have the wrong book.

MR. ANCHMAN: I'm sorry.

To bring Your Honor up to date.

THE PRESIDENT: I have it now.

MR. ANCHMAN: NI 8372 as Exhibit 1228 and it's the lease agreement. We ask Your Honors to note, with respect to the lease agreement, the fact that the rent is payable to the government officials, and in Article VII of the agreement, the lessee has a right of first refusal with respect to the purchase of the property. It's translated in the lease as the right of preemption.

Now, in the next two documents, they're negotiating for the purchase of this and we offer, as Prosecution Exhibit 1229, NI 8156 and, as Prosecution Exhibit 1230, NI 8208. Now with respect to the last two exhibits and four exhibits coming up, Your Honors should note that by July of 1943 Farben had not succeeded in purchasing the plant. At that time, July, 1943, Your Honors will note from Exhibit 1215, which is NI 8209. That's the decree

that I referred to last Friday. The decree was issued then, in July, 1943, stopping all further sales of property in the area and a time limitation was imposed within which all matters then pending had to be concluded, so that, with respect to the next four documents, you will see the urgency on the part of Farben to try to come within the time limitation fixed by the decree so as to be able to acquire this plant, and so we offer, as Prosecution Exhibit 1231, MI 10612; as Prosecution Exhibit 1232, MI 10613; as Prosecution Exhibit 1233, MI 8211; and, as Prosecution Exhibit 1234, MI 8160. There's reference in these four documents to the difficulty that Farben is having with delaying tactics of certain government officials which seem not to be coming along and the documents indicate that, in the absence of this auditor's report, further proceedings for the acquisition of the property cannot be had. The purpose of these four documents, as I indicated, is to show the aggressiveness and initiative of Farben in going after this property, and Your Honors will also note, with respect to these documents, the defendant Jaehne's interest and participation in this affair.

Now, that concludes the documentary proof with respect to the Diedenhofen plant and I might add that the sale itself of the plant was not finally consummated because the government officials, as appears from these documents, did not have the reports and audits made in time in order to come within the time limit, but Farben held on to the plant, as lessee, until the end of the time when the course of military events required that it go back.

The next series of documents relate to the acquisition by Farben of the Strassburg-Schiltigheim plants of the Air Liquide and Oxygene Liquide and the first two documents with respect to that story we offer in evidence as

Prosecution Exhibit 1235, being NI 8358, and Prosecution Exhibit 1236, being NI 8357. Now, with respect to these two documents, Your Honors will note that in Exhibit 1229, being NI 8156, which we introduced a moment ago, reference is made to a Mr. von Lersner, L E R S N E R and that Mr. von Lersner is to use his personal connections to acquire, for Farben, the Schiltigheim plant. Exhibit 1235, which we have just offered now, shows that this same Mr. von Lersner appears, representing Farben as the buyer. This Exhibit 1235 is the contract of sale. We ask Your Honors to note again that in the contract of sale is the recital of the authority of the government agent to sell, and in that recital appears the fact that the government who was selling seized the property and this is the property that is being sold to I.G. Farben. That is the story of the oxygen plants that I have just referred to.

The next document we offer as Prosecution Exhibit 1237, NI 8585. This is a letter from the Diedenhofen office of the Vereinigte Sauerstoffwerke GmbH. Now, you will see that name appearing in the description of the documents. That company is a subsidiary of I. G. Farben and it shows up in an affidavit at the end of this book and in some other reports showing the connection between this company and Farben. At any rate, the evidence is there and, although it is a subsidiary, they are in with Farben with respect to the acquisition of this plant. Now, this Exhibit 1237, while it relates to a plant in Luxembourg - we have not pursued any spoliation count as respects Luxembourg. We offer this exhibit for the purpose of showing that in this letter there is a report of a German official with regard to what the policy is with respect to France - Alsace-Lorraine - and we think it's relevant as to the understanding that Farben had and the knowledge as to what the official position was with respect to Alsace-Lorraine, and at page 32 of the document book, which is page 50 of the English, appears this reference in the letter. They are referring to a conversation with the government official in charge of property in Luxembourg and he says:

"France is an enemy state and Alsace-Lorraine undoubtedly counts, with everything on hand, as booty so that it can immediately be disposed of by the state."

The next document in the index is an affidavit which we'll omit in the interest of expedition since the succeeding document tells the story just as well.

So we offer, as Prosecution Exhibit 1238, NI 8581. This is an affidavit of Mayer-Wegelin, the Farben attorney who was actively involved in the acquisition of all these properties in Alsace-Lorraine. He sums up, as a general matter, Farben's activity and I call Your Honors' attention especially in this affidavit to his statement that the Vorstand had knowledge of all these matters, and that, if Your Honors please, concludes the presentation of the documentary proof with

respect to Alsace-Lorraine.

I might ask Your Honors, for the record, to please note one thing. Since my oral presentation was more or less expeditious, I have omitted the description of the documents after referring to them by NI numbers, and I would like to ask Your Honors to consider that the description, as it appears in the table of contents, are to be considered along with the identification by NI number.

THE PRESIDENT: The Tribunal will take the index as counsel's description of the substance and contents of the document, subject, however, to any inaccuracies or errors that may now or later be called to our attention by the defense.

Permit me to say to you, counsel, that the Tribunal appreciates very much indeed the expeditious manner in which you have presented the documents in these two books. We feel that you have not only conserved time but, in our judgment, presented these in a most favorable way from the standpoint of the view of the prosecution in the case and we wish to express our appreciation to you for so doing.

MR. AMCHAN: Thank you.

MR. SPRECHER: May it please the Tribunal. The next book is Book 57 and it will be followed by Book 58. Both document books concern the so-called Francolor complex. The Indictment makes the allegations concerning the spoliation with respect to the Francolor complex beginning in paragraphs 103 and following.

I ask Your Honors to recall that France, pursuant to the commitments it had made to Poland to assist in the defense of Poland if Poland were aggressively attacked, did come to the aid of Poland considering itself, France, to have been likewise attacked so far as its security was concerned, and that that happened in the first days of September, 1939. France was finally overrun by the victorious German armies in June of 1940. Your Honors will recall that on the 10th of June, 1940, the Italian government declared war on France in what has been called the famous stab in the back by Mussolini, and that, by the 20th

of June 1940, France was completely overrun and an Armistice was signed immediately thereafter, either on the 21st or 22nd of June, 1940. You will find, of course, that Farben and some of these defendants had been concerning themselves with the possibilities which the overrunning of France meant, from the economic exploitation point of view, just prior to this time and for some time after the overrunning of France. With that introduction, I'd like to proceed to the documents.

The first document, 1155PS, may go in as Prosecution Exhibit 1239. You will notice that this is a secret note of Goering, issued by Goering's headquarters concerning a conference held on the 19th of June 1940. Now, this is before the final Armistice - it's just several days before - and we want to call your attention merely to Item 4 on page 1 of the English and page 2 of the German. Item 4:

"The endeavor of German industry to take over enterprises in the occupied territory now already must be rejected in the sharpest manner. Travel of industrialists into the occupied territory must not be permitted for the present."

Now Your Honors may skip over both of the next two documents and I will come to Document NI 6842 which is already in evidence as Prosecution Exhibit 1048.

THE PRESIDENT: May I ask.....

MR. SPRECHER: It's found at page 9 of the English and page 8 of the German.

THE PRESIDENT: May I ask you, counsel, do you intend to offer the two preceding documents later or dispense with them?

MR. SPRECHER: Your Honor, I'm going to omit a number of documents today that are in this list and the reason is two-fold. In the first place, the prosecution has considered very seriously the remarks which the President has made concerning documents which might be considered either purely cumulative or else anticipating defenses and therefore are matters which the prosecution might well come to at another time, and that covers such documents as these two.

THE PRESIDENT: Thank you.

MR. SPRECHER: The prosecution has a second reason. It feels that many of the affidavits that we have offered by witnesses who, in fact, are friendly to the defense, have offered an opportunity for unduly stringing out the proof in the prosecution's case and that the prosecution has so little to gain additionally by those few facts that we actually were interested in in these affidavits that we are going to omit some ten of them in this particular presentation alone, and we will wait for the defense in order to see what use will be made of this and many other things which we have in mind.

THE PRESIDENT: Very well.

I interrupted you with reference to your presentation on Exhibit 1014. I'm sorry. If you have any comment to make with respect to it.

MR. SPRECHER: Your Honor, I think it is 1048, NI-6842. Now, you will note the date of that memorandum. It's the 19th of June 1940 and it's a report from the Farben management division in Frankfurt by Kufuss, and I only want to call your attention to the bottom of page 9. That's also page 9 of the German. Kufuss points out at the bottom of the page:

"If Farben had any special suggestions to make with regard to the lines on which the manufacture of dye-stuffs was to be organized in future in the countries in question, it would be useful if they would bring them forward on this occasion."

And then, this is the most telling paragraph because it forecasts the future and it indicates the motive as well as the entire scope of spoliation:

"It was stated in confidence that Herr U.....", meaning Herr Ungewitter who was the head of the Wirtschaftsgruppe Chemie, the Economic Group Chemistry, as well as the Ueberwachungsstelle Chemie, which is the Supervisory Group Chemistry....."remarked during the conference with Herr Born that European dye-stuff production after the war would probably be under the management of Farben."

Kufuss was remarking about some conferences that he had had with

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the Reich Ministry of Economics. Please note the time. France has not even entered the Armistice yet, although the moment is well at hand.

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The next document, NI-4897, is already in evidence as Prosecution Exhibit 1049. We will skip over it. I am sure Your Honors have been pointed out already the important things there. The next document, NI-6293, is already in evidence as Exhibit 818. Now, these are minutes of the Commercial Committee of Farben. You will note the large number of defendants who are present, beginning with von Schnitzler and going down the list in the Commercial Committee.

Would you turn over to page 16, please? That is also page 16 of the German. The whole document is considering planning with respect to conquered Europe. And over on page 16 I only want to point out, in the last paragraph in the English, that questions concerning southern Europe and Scandinavia were to be taken up in special discussions, and then later on for South-Eastern Europe," provided the technical officials are in agreement at the South-European Committee meeting." We think that is rather interesting reference to show the dove-tailing and coordination with respect to this planning which carried the knowledge into each competent corner of the Farben organization, and certainly carried the knowledge of these general plans to every defendant in this dock and to the entire Vorstand.

Will you go over to the next page, to the first full paragraph? And here we think this is very interesting. It shows I.G. generally being consulted on the future spoliation activities of many industrial and official groups in Germany. "In connection with the fact that industrial groups and other industrial trade organizations make inquiries of many I.G. offices and the Konzern companies about the reorganization of Europe, the Commercial Committee decided that before they were answered the WIPO" —that is one of the sub-divisions of Ilgner's organization in Berlin—"was to be informed in every case of inquiries of this kind so as to insure uniformity of answers by all I.G. agencies and offices."

We may pass to the next document which is found at page 22, page 18 of the German. It is already in evidence. It is NI-6840, in evidence as Prosecution Exhibit 1052. Since the case we are about to develop

followed very shortly upon Farben's presentation of the New Order plans, we think it important to call to Your Honors' attention the close relationship between the so-called "New Order" and what Farben planned--and actually did--in connection with the French Dyestuffs Industry.

Now, here, at page 22--that is page 19 of the German--will you note the following, please? "Ministerial Director Schlotterer's reaction to the material presented to him by us was essentially and entirely positive with regard to both methodical procedure and basic conceptions and the evaluation of individual questions undertaken by Farben."

"This favorable reaction accordingly covers the project planned by the Commercial Committee for memoes on countries in the order chosen in this list..."

Would you turn over to the next page, page 23, page 20 of the German? This whole complex involves a rather careful timing of activities on the part of Farben in relation to the stricken French chemical industry as well as in relation to some other German representatives, some representatives of the German Reich who were active in the field, and it will be necessary to make a few references to these inter-connections. This memorandum for the files by Ter Haar states there, at the middle of page 23, that "In connection with the French request discussed in this connection for an early conference with the German dyestuff industry he pointed out"--referring to Schlotterer, from the Ministry of Economics--"that it was advisable to deal with these matters in the closest possible agreement with Ambassador Hemmen," Ambassador Hemmen was the chairman of the German Economic Mission concerning France, which was located at Wiesbaden, "and also to discuss the matter thoroughly with Dr. Uggemitter" who by this time, I am sure, is familiar to Your Honors," and to come to an agreement with him before negotiating with the French, so that the participation which we consider expedient from the private economic point of view does not run contrary to the interests of the national economy generally..."

And if you will turn over to the bottom of page 24 and at the top of

page 25—that is page 21 of the German—you will note that Farben representatives were busy talking to a number of other representatives in the Reich Government in connection with this plan, and you will note that one representative, Imhof, especially welcomed Farben's reports "on a special type of European—or, rather, German preference"—which he believes he can use in establishing the European clause planned by him." And then goes on to the following details: "That it is actually a matter of course that, on the basis of Germany's superiority from the angle of power politics, the economic and political superiority of Germany over France, to be firmly steered by Germany, should be established once and for all."

And then, if you go down to the next paragraph—that is still page 21 of the German—you will note that one of the Ministry of Economics people stated that the original French proposal for a fifty-fifty participation in the French chemical industry was considered 'quite honorable.' Of course, what Farben shortly hereafter came to drive for was a fifty-one percent control, and of course that was what they finally achieved.

We go over to page 28 of the English and page 26 of the German. That is a very decisive document, and I will not ordinarily refer to other documents this long. Now, there, beginning about the top third of the page, it is stated: "We have explained in this connection to Mr. Born that we considered France not only as a model for the plans on countries asked for by the Reich Ministry of Economy, and which will follow shortly, but, above that, as a classic example of the whole factual consideration to be done in connection with large-scale area planning."

"Will you try, Your Honors, to fit that remark into the whole course of events that follows, and into the Nazi idea of Grosswirtschaftsraum, because there is the essence of spoliation, and to see how closely Farben dove-tailed its plans, its thinking, its terminology, and its actions, to the Grosswirtschaftsraumpolitik," which, in its essence, was a means of

either robbing the industrial potential of the occupied countries and using them on behalf, first, of the German war machine, or on behalf of German industry, or, on the other hand, of telling other people how to run the economy inside their own countries--both things being impermissible under international law.

Now, on page 28, at the bottom--that is page 27 of the German--you will note that a reference is made to the fact that the government authorities were saying that possibly Farben might even step up its demands, and here is an error in the translation which I must point out to you.. "which we could certainly formulate more strongly if the course against France should become more rigorous." "We agreed," you will note in the last paragraph, "to this general form."

The next document, NI-4894, may go in as Prosecution Exhibit 1240. It is merely the order of the German military administration in France sequestering the French chemical plant of the Iuhmann concern at Villiers St. Paul.

The next document, NI-6839 may go in as Prosecution Exhibit 1241. Now, here we have a file note under the date of 14 September 1940. It concerns certain negotiations which were going on in Wiesbaden, Paris, Brussels--and again in Wiesbaden, where a number of these defendants participated. Dr. Newman will make more detailed references to this document because it concerns to a great extent the pharmaceutical field, and I shall make much briefer reference to it at the present time. If you will turn over to page 32, you will find that in some of these preliminary discussions which the defendant Harn, among others, held with the German authorities in Wiesbaden, who were planning the economic aspects of exploitation in France, that mention is made of collophane, and the object of getting into that field with respect to fruitful negotiations. This, of course, concerned Sparta III, and Sparta III concerns the Defendant Gajewski. We merely point out to indicate that the motive for this exploitation ran through all the three major Sparten of Farben.

The Sparta most concerned, of course, is usually Sparta II, which had the greatest number of products.

Now, if you go over to page 34, which is page 35 of the German, you will see that the Defendant Mann was informed by Michel, Chief of the War Administration, in the Economic Department France, that the fundamental principle of his work was that, and this is quoted in the original, so this is really a double-quote. "The historic chance of adjusting French economy to German requirements through appropriate interference in the French economic system must be utilized completely and to the full."

When an aggressor appropriately interferes in the economic systems of the invaded countries that, of course, is the essence of spoliation.

Will you go over, please, to the next page, 36, which is page 37, at the bottom, of the German. There you will note that Farben was making plans and was being advised to contact even the local military authorities so that there would not be any short circuits at that level with respect to the plans which they had with respect to Occupied France.

And then, if you go over to page 38, you find a number of references to the photographic and cellophane field which again will show that Farben had its eyes beyond the field of Sparta II, and that Gajewski's Sparte III was also involved.

If you go over to page 40, which is pages 42 and 43 of the German, in the middle of the page: "It is to be presumed that the contact which has now been established between Agfa Paris and Waechter will have created a possibility for stating clearly the interests of I.G. in the steering of the French film production."

That is Gajewski's Sparte III. If you go over to page 44, you will note -- and that is page 50 of the German -- a very interesting paragraph, at the bottom, speaking of the conference which was held with one of the German economic representatives.

"In this connection it is important that Dr. Bard was advised of I.G.'s application - I.G.'s application that is - not to admit at present the resumption of production by the French dyestuff producers."

Now, that we underline; the reason is that I.G. was applying to keep the French chemical industries from being able to produce so that they could be softened up for the process of negotiations which we shall soon come to.

May I continue the quotation? "Dr. Hard has promised to take in his turn a negative attitude if the Kuhlmann factories should apply for a license in order to get heavy chemicals in the departments cited for organic factories in the occupied areas."

There has been a lot of talk here about being forced to do things, and here we have a case where Farben is asking for the economic strangulation of the French dyestuffs producers -- and the reason will shortly appear.

If you turn to page 45 -- that is page 51 of the German -- this is a conference in Wiesbaden with Ambassador Hemmen. You will notice that at these conferences the Defendants Mann, Ter Meer, Schnitzler, Kugler, were variously from time to time, and these notes were reduced to writing by Ter Haar, a high official in Ilgner's NW 7 agency, and circulated.

Hemmen -- that is the big German representative at Wiesbaden concerned with these matters -- stressed the pressure required "for our negotiations, should develop, so to speak,

from the natural course of events as the economic situation in France grew more and more difficult, and not prematurely to any extent through action by the Armistice Delegation."

Then, the next paragraph -- and note how well the German Reich officials understood the kind of game that Farben was playing:

"Hommen showed clearly, that in these circumstances a policy of delay and further waiting on our side until the late autumn or early winter would give us an effective basis for our negotiations."

We may pass to the next document. We will omit the Krueger affidavit for the reasons previously stated. The next document is at page 49, and that is page 56 of the German.

DR. HENZE: (Counsel for the Defendant Kugler): Mr. President, with respect to the fact that the document which was just discussed has no signature, I have attempted to learn more from the photostat. I have also tried to find out what this affidavit says. I have learned that it is not in my records, so that I cannot comment on this preceding document, and I should like to reserve such comment. I should merely like to point out that this document has no signature; there is no indication of who dictated it; there are no notations in the margins; no initials. One cannot see whether it is a draft; one cannot see whether this document was sent to any other gentlemen.

At the moment I am not in a position to make any statement, especially since the next document which is Dr. Krueger's affidavit, is not in my book. I would be grateful if some explanation could be given.

THE PRESIDENT: What has the Prosecution to say?

MR. SPRECHER: This document was a captured document, and on the face of it it has a stamp which says "secret".

This is a State secret. And you will notice that it refers to certain participants who are here in the Defense box in a position to testify concerning this matter. For the present, the Prosecution thinks that is adequate. We have an affidavit which we are skipping over concerning the matter and after the Defense has spoken concerning this matter during its Defense Case if they so choose we shall be ready.

THE PRESIDENT: In view of the fact that there is a statement that the document is omitted from the German book of counsel making the objection, we think it only fair to leave the door open to such further objections as counsel for the Defense may desire to make, after he has ascertained what he can about the document.

In the record admitting it in evidence it will be permitted to stand upon the ground that it is supported by a certificate that it is a captured document. The circumstance that the document may bear no signature, or show no distribution, will be considered in determining what weight, if any, the document shall receive at the hands of the Tribunal.

MR. SPRECHER: Mr. President, Defense counsel made reference to the next document as not being in his book, and that is the document which we are skipping over for the present time. He does have the proper copy of the document in question. The next document, then, is NI-792, which may go in as Prosecution Exhibit 1242; and will you turn to page 49 of the English document book - that is page 56 of the German. Now, in connection with the objection just made I would like to make a few remarks here. The document I just read from is dated the 14th of September 1940. You will find that over at page 46 of the English and 53 of the German. Now, here we have a letter from the 12th of September 1940

from the Defendant Kugler to Ter Haar, and Kugler says: "Thank you for your letter of the 9th inst.---"

THE PRESIDENT: Counsel, pardon an interruption. We are confused a bit on numbers. I think some of us have started off correctly. Will you take your document book, at the top of page 2 of your index? Document 6840 I have noted as being in evidence as Exhibit 1052, is that correct?

MR. SPRECHER: That is right, Mr. President.

THE PRESIDENT: Now, in Document NI-4894 that follows; what number does that bear?

MR. SPRECHER: Prosecution Exhibit 1240.

THE PRESIDENT: Thank you. And the next one is 1241?

MR. SPRECHER: Yes, Mr. President.

THE PRESIDENT: And the next one 10685 is omitted?

MR. SPRECHER: That is right.

THE PRESIDENT: And you are now talking about NI-792, to which you have given No. 1242?

MR. SPRECHER: Thank you, I am sorry.

THE PRESIDENT: No, it was not your fault. I just made an error and was carrying it forward. Thank you very much.

MR. SPRECHER: Now, here the Defendant Kugler is writing to Ter Haar on the 12th of September 1940, which is two days before the date of the memorandum to which objection has just been made. And Kugler -- the defendant Kugler -- says: "Thank you for your letter of the 9th inst. The file note which you have drafted gives an excellent summary of the course and results of the Paris and Brussels meetings. After looking through my own notes I have practically nothing to add. With regard to the 'official' part, I would only suggest that you might perhaps mention on page 3 of the Brussels report my conversation" -- that is the Defendant Kugler's conversation --" with Dr. Bard ... and that he was

informed of Farben's proposal not to allow manufacturing to be resumed in the French dyestuff factories in the meantime."

Now, if you go back to the memorandum to which objection was made, and note that that memorandum being made two days later contains exactly the proposal which Kugler makes to Terhaar, I think you see something more of the authenticity of this document.

Now, on page 49 to page 56 of the German, again, you will just note that the whole subject will be discussed again orally at the next meeting of the Commercial Committee; and then you will notice, over on page 50 of the English, page 56 of the German, just before the break in the page, that note is made by the Defendant Kugler that "Bong-Poulenc and Kuhlmann -- those are two of the principal French concerns -- "are worried because Farben has not yet tried to resume the association in any way."

The effect of the tactic that was being applied by Farben with the assistance of the Reich, was having a swift and certain effect.

The next document --

THE PRESIDENT: If you please, The Tribunal will at this time rise for its morning recess.

(A recess was taken.)

(AFTER RECESS)

THE MARSHAL: Military Tribunal No. 6 is again in session.

MR. SPRECHER: The next document NI 6161 is already in evidence, as Prosecution Exhibit 369. On Page 51 of the English and page 58 of the German, we have the following to note:

You will note that this is a meeting of the Commercial Committee of September, 1940. This is before the actual negotiations of the French began, and you have present, 8 of the defendants, including the defendant, von der Heyde for a time, and it is mentioned in the first paragraph that von Knieriem tells of his discussions in the Reichsgruppe Industrie, and goes on to indicate that negotiations concerning occupied territories have to be carried on in connection with the authorities. Of course, it is only natural that Farben's principal lawyer would be concerned so far as negotiations and hospital contracts were involved.

On the next page, 52, at page 59 of the German, you will note that a report is made to the entire commercial committee concerning each of the three principal phases of spoliation in France.

First, the defendant Mann reports concerning Frankolor, or the pharmaceutical field, and von Schnitzler reports concerning the dyestuffs field, and von Schnitzler also reports concerning the organic chemical industry in Alsace-Lorraine.

Now in connection with what von Schnitzler says there, with respect to the tactics of the negotiations, we point the following out: "Dr. von Schnitzler reports on the further development of Franco-German relations, whereby it is agreed -- it is agreed in the Commercial Committee that concerning direct negotiations with the French partners, to begin with, one should wait."

We pass to the next document, NI 6946. It may go in as Prosecution's Exhibit 1243, with your Honors' permission. This is a report of Kramer. There will be a number of them. Kramer was Farben's Paris representative, and was very active in connection with the negotiations concerning the whole Francolor complex. We only introduce this short

document in order to show that in October, 1940, Farben's policy of, "let them simmer in their own juice", a phrase we shall refer to later, was having its effect. The representatives of the big French chemical leaders were weakening and were becoming very unhappy about the development.

You will note on page 55a, that is 63, that "Frossard had tears in his eyes as he talked about the situation", and then at the bottom of that page, 64 of the German, it is said that "the Kuhlman people fully realized that Germany will win the war and that the European economy will be organized under Germany's management".

The next document is NI 879; it may go in as Prosecution's Exhibit 1244. This is a letter from the defendant von Schnitzler to Mulert in the Reich Ministry of Economics. Now this letter is very interesting for a number of purposes in connection with motive, and may I call your Honors' attention to the top of page 58, page 66 of the German where Schnitzler is telling Mulert about a talk he had with Hommen and he says:

"I took the opportunity of explaining to him the reasons why I would still consider it wise not to postpone discussions with the French chemical group for too long."

And then he goes on to say that there is bound to be a certain amount of recovery in production by some of these plants, and then he concludes:

"These plants would be able to resume work even without the help of I.G."

"Circumstances would be probably less favorable for our private economic negotiations."

So the propitious moment for going into these matters with the French directly was about to arrive, and we shall get to them very shortly.

You will note in the last full paragraph on page 58 that Schnitzler asks for some conferences and states:

"We wish to earmark the week beginning on 18 November, to discuss in full detail with you the tactics to be employed when negotiating with the French."

You will see that Farben was selecting the time when the softening

up process could be considered to be sufficiently advanced so that the negotiations could begin.

We omit the next document, and thereafter the next document is NI 9901 which may go in as Prosecution's Exhibit 1245.

Now this document, found at page 64 of the English, and page 75 of the German, is a document which is quite important. I do not think we will have to make any particular reference to it. The document was read to the French by the defendant von Schnitzler at the first meeting.

We might just point out on page 71 of the English, and page 82 of the German that Schnitzler refers to the New Order in connection with the anticipation of Farben in exploiting the French Chemical Industry, and states that French exports would exist as an exception to the rule only in certain factories, and that of course these exports could only be carried out if they did not damage the German export trade or upset the markets under German management.

Now we skip over the next document, and the next document we come to is NI 6727, page 77 of the English, and 90 of the German. This may go in as Prosecution's Exhibit 1246, the document number is NI 6727.

Now this is a copy of the minutes of the first negotiations in connection with the old Francelor affair when the French were present. This document makes it plain that the French objective was to resume the former cartel relationships which existed between the French and German chemical industries before the war, and then you will get over to the crucial point, if you start at page 91 of the English and 93 of the German, when Hemmen, the head of the Commission, expressed his astonishment that the French should take this opinion, and although he did not want to anticipate the remarks of the defendant Schnitzler, he hoped that the French could appreciate the new political circumstances, and on the next page, 82, indicates that he is practically speechless because the French made this proposal, and then thereafter, the defendant von Schnitzler goes forward, and you will find that over on page 83, the middle of the page, it is noted that the defendant von Schnitzler then read the German memorandum; and that German memorandum is the last preceding document offered, that is NI-5901, Prosecution's Exhibit 1245.

If you will turn over to page 84 of the English, page 95 of the German, - I am sorry, I should have said page 85 of the English, page 95 of the German, the memorandum by Schnitzler was stated by the German representative to be a sufficient indication of the way in which German industry envisaged collaboration with the French dye industry.

The memorandum, of course, made the famous, "claim to leadership" over the entire dyestuffs and dyestuffs product industry in France. That is mentioned again over on pages 86 and 87, and the Germans are bringing up in the meeting that they feel that German industry, - meaning Farben, - should have a direct financial interest in the French industry, and indicated further on that they are referring to the French production industry.

You will note that the defendants, Schnitzler, ter Meer and

Kugler, were present in these conferences.

After this particular discussion, Ambassador Hamman, stepped out of the actual formal conferences, but you will notice that before he left, he left his imprint upon the negotiations, page 91, that is page 98 of the German.

Hamman stated that should the two parties dealing privately fail to make progress a fresh meeting of all of the members and their leadership of the two governments would be called.

We omit the next two documents, your Honors, and come then to NI 6838, found at page 100 of the English and page 106 of the German, which may then go in as Prosecution's Exhibit 1247. This is a memorandum by the Defendant Schnitzler concerning further conferences held between the Farben representatives and the French representatives. Schnitzler discusses the German claim to leadership.

The next document NI 3707 may go in as Prosecution's Exhibit 1248. This is another memorandum by Kramer, Farben's Paris representative, who is very active in these discussions. You will note that Kramer was left behind in order to act as a cushion between the higher Farben representatives and the French, and whenever they attempted to get some further commitment from Farben, in an attempt to sound out Farben concerning some modification of Farben's original demands, Kramer would keep telling the French representatives, "It is no use, gentlemen; if you don't come to terms, then we will go back and see Ambassador Hamman".

DR. VON KRAFT, COUNSEL FOR THE DEFENDANT, KUGLER:

May I point out an error in translation, which is not insignificant in Document NI 6838, Document book 57, German page 112, in the second paragraph. The English translation is correct. It states there: "The German claims does not extend principally to all organic chemical production". The word "not" has been omitted in the German text. The German text should be corrected to read, "The German claim does not extend principally to all organic chemical products".

2nd paragraph of the document book NI 6838, book 57 page 112.

MR. SPRECHER: Since that has merely to do with the correction in the German, I do not think any comment by us is necessary.

THE PRESIDENT: Do you concede the correction?

MR. SPRECHER: We will check the German photostatic copy.

Can we go along until we do that?

THE PRESIDENT: Yes, and please call it to our attention when you are ready.

MR. SPRECHER: Now you will note there in the middle of the page, of 110 of the English, and 117 of the German, that report was made to Kramer by Duchemin from the French, that he thought I.G.'s proposals went too far, and he said that he would rather cut his hand off rather than sign such an agreement.

Then there is some counter proposal discussed, and even on the next page, Kramer asked the French if they would change their minds if Germany would offer some sort of a compensation for the capital participation in French industry which Germany was requesting.

(Sprecher)- and then you will notice in the last paragraph that Kramer indicated to the French that it was imperative that the French parties revise their attitude fundamentally by the middle of January. This setting of little deadlines is rather interesting here, and at the end of the paragraph you will note also that Kramer does not think any further negotiations with Dr. von Schnitzler will be necessary because the German proposals were well-known and, "because the French group would have an opportunity in the meantime to adjust their point of view with that of the I. G."

That, we submit, would be effrontery in any normal negotiations where pressure and duress was not the tune of the day.

The next document, NI 6947 may go in as Prosecution's Exhibit 1249. This is another Kramer note concerning the progress of the negotiations. You will note, for example, in the first paragraph that Kramer is constantly warning the French that it would be very disadvantageous to them if they do not move along and start making these private negotiations approach the Farben viewpoint.

You will note over on page 113 that by January there is a certain breach in the resistance of some of the leaders of the French Chemical Industry, the softening-up process is having its effect.

We may pass to the next document book, Document Book 58, Your honors, may I go on?

THE PRESIDENT: Yes.

MR. SPEECHER: The first document is NI 6949, and may go in as Prosecution's Exhibit 1250. This is a copy of the minutes of the report on a conference in Paris in the latter part of January, 1941. You will notice that for Farben the three defendants von Schnitzler, ter Meer and von Kugler are present.

By this time the French have gotten to the point of admitting the German claim to leadership in principle, and they start to make some efforts to reduce the amount of the German demand for capital participation, and they first take the point of view that they would like to

have the German capital participation limited to the sale side. "This is immediately rejected as not being within the field of discussion", and then later on you will find that the French tried to bargain with respect to reducing any participation on the production side by the Germans.

Now the Farben position with respect to the Greater and the Newer European Economic Order constantly mentioned in these discussions. As one example I would like merely to point out that reference on page 3, German page 6, the French attempt to resist the Farben demand for more than a majority control in the production of French dyestuffs industry by saying that their government would not agree. This proved to be without avail.

The next document is NI 3708, at page 7 of the English, and 12 of the German. It may go in as Prosecution's Exhibit 1251. This is another Kramer memorandum, and he notes that the French have now gotten to the point where--the French Chemical leaders have gotten to the point where they are willing to agree to a 50-50 participation by Farben in the French Chemical Industry, and you will note references that in the unoccupied area intermediate products are lacking, and in the occupied territory, there is a lack of coal.

The French industries at this time were more or less lying idle for reasons I think your honors will find apparent.

Now we may then pass to the next document, NI 6726, which may go in as Prosecution's Exhibit 1252. This is another Kramer memorandum concerning certain conferences he had with the French on behalf of I. G. Farben.

At the bottom of page 8 of the English, page 15 of the German, one of the French representatives had proposed that the whole proposed deal might be a little more palatable to the French if one of the factories, namely, Saint-Clair-du-Rhone in the unoccupied zone of France, were removed from this proposed deal; that would make the French feel that they had not lost all of their prestige.

Now you will find over on the next page, that Kramer hit the nail right on the head. He says, "I could imagine that there was a further motive underlying General Blanchard's proposal, inasmuch as the only factory situated in unoccupied territory would be excluded from the ruling. In case of difficulties arising later, it could then be proved to outsiders that the German-French agreement came into being under pressure of certain circumstances and was unavoidable in occupied France".

Then if you will turn over to the next page you will find that the pressure is getting stronger, the statement is made in the French negotiations, "unless the French gentlemen can get together and get the approval of the French Government, no further conferences could be arranged until the end of April."

Since this is the 4th of March, 1941, and since the end of April would be nearly 7 weeks away and 7 weeks for a prosperous French dyestuffs industry, you can imagine what that would mean.

The next document is NI 6950. It may go in as Prosecution's Exhibit 1253.

Unfortunately in the process of transcription, the minutes of the first meeting come second in this particular document. The meeting of the 10th of March being over on page 16 of the English Document book, page 23 of the German. You will note there that as of the 10th of March, 1941, the French Government has expressed to the German Armistice Economic Delegation, its agreement, in principle, to the establishment of a German-French dyestuffs company, on the basis of the 51 per cent participation by Farben.

I will now ask you to go back to page 11. You will note at this conference, a plenipotentiary general Barnaud was present, and then if you will go over to page 20, Barnaud for the French, finally agrees to the 51 per cent participation by the Germans in the French dyestuffs industry.

The next document NI 807 is already in evidence as Prosecution's Ex-

hibit 328. We offered this previously in connection with showing Farben acting on behalf of D&G in connection with spoliation. We now draw your attention to the last third of the document, --- this is on page 22 of the English, page 29 of the German -- the defendant Schnitzler points out to Paul Mueller the head of the Vorstand of D&G, that because of the victory of Farben in getting the 51 per cent participation in the New French Company, "also in fact, Farben will own the majority of the shares of the synthetic material producing section."

We merely point that out to show that actually the whole Francolor complex involved more than dyestuffs.

The next document NI 6924, may go in as Prosecution's Exhibit 1254. The Farben proposals went beyond the possibilities of the then existing French law, and here we have Farben's lawyer, Mayer-Megelin, writing to another lawyer and asking him to be ready to take certain action with respect to getting the French laws changed, indicating that certain studies would have to be made.

If you will go over to page 27 of the English, and page 34 of the German, you will find Reichstein replying to Mayer-Megelin and telling him that he had found out how the French corporation laws had to be changed, in order to accommodate the Farben deal with respect to Francolor.

The next document we will omit, as well as the next. We now come to NI 6845, which is found at page 35 of the English, and page 41 of the German. This may go in as Prosecution's Exhibit 1255. This is the final contract between the group of dyestuffs plants in France, and I. G. Farben.

"The following has been laid down and agreed upon."

Here your Honors will find a preamble. This preamble is rather interesting because it represents the last protest of the French dyestuffs industry, finally agreeing in toto to the Farben proposal, but indicating the circumstances in a rather covert way, not too offensive to the Germans, but indicating still the fact of the pressure under

which they had been placed.

Apart from making a reference to that, in which you will find that mention is made of the fact that the French government agreed to this thing only on the ground that the Germans would not construe it as a precedent for any similar acquisition by a private German industry in the French industries.

With that reference I think for the time being we can pass over this document.

The next document is NI 6886, which may go in as Prosecution's Exhibit 1256, found at page 59 of the English, page 68 of the German. Here we have the Articles of Incorporation of Francober. This is the top holding company which is to include all of the French dye stuffs factories, which were allowed to exist hereafter, and reference may be made to this from time to time. At the present moment, I would only like to direct your attention to page 70, that is page 80 of the German, to article 10, "the shares of this corporation shall always belong to the extent of 51 per cent, to the German group of I. G. Farben".

Then you will note over on page 72, your Honors, that the defendants, Schnitzler, ter Meer and Ambrose were to be the first representatives on the council which was to run Francober.

We may now pass any further reference to that document, and we are omitting the next two affidavits by the Frenchman who were affected principally by these negotiations.

We will skip NI 6537, which is an affidavit of the defendant ter Meer, found at page 123 of the English, and 124 of the German. That is NI 6537, and may go in as Prosecution's Exhibit 1257.

I would like to call your attention to the middle of page 123 of the English, bottom of the page 123 of the German. The defendant ter Meer points out that he wants to say, more or less according to intuition, that I. G. Farben developed its own initiative in this matter, and he pointed out that the internal reports concerning Farben's proposal that occurred between the time of the New Order made by Farben, and

the actual negotiations with the French. The author of these internal reports was the defendant Kugler.

This though, I want to point out particularly, that Kugler took a great deal of initiative in connection with spoliation. Ter Meer pointed out that so far as he can remember the elegant word, "claim to leadership" was coined by the defendant Schnitzler, and there is some reference made to the possible pressure which the French might feel under the circumstances.

And on the next page, there is some reference to the report which the Reich gave to Farben.

The next document, HI 4670 is an affidavit by the defendant Kugler, and we would like to put that in evidence as Exhibit 1258. Referring to the top of the page 125, English, page 127 German, Kugler states that in the dyestuffs field, "we were chiefly interested in making it possible for the I.G. to acquire control over the regulation of production in the larger economic sphere of German influence".

And then you will note in the last paragraph there that these whole questions of the New Order in European Economy were becoming very frequent in the German vocabulary.

And then over on page 127 of the English, page 128 of the German Kugler states the following:

"The French had to get the impression that a new management of the French dyestuffs industry would necessarily follow on the basis of the 'claim to control'."

And then later:

"In other words: a refusal of the claim to control seemed impossible."

And you'll note that the defendant Kugler makes some reference to the preamble I mentioned recently to the whole Francolor agreement at page 129, page 130 of the German:

"The French also made a restriction to this effect in the preamble of the Francolor agreement in which they declared that the whole agreement was the result of the prevailing political constellation."

And then Kugler states that the initiative with respect to the Rhone-Poulenc which we will shortly hear about from Dr. Newmann was taken probably by the defendant Mann, whereas with respect to the Francolor it was taken by the defendant Schnitzler.

We then pass to the next document, which is NI 5193, which may be marked in evidence as Prosecution Exhibit 1259. For the present time, I'd only like to ask Your Honors to go over to a few references, the first being on page 134 of the English and page 138 of the German. You will note there that Schnitzler, in describing the negotiations with the French states:

"I thought it advisable to let them simmer in their own juice and to wait until they asked for such private negotiations through the official channel of the Armistice Commission."

would you then go over, Your Honors, to page 137 and at the top of page 138, that's at page 145 of the German. It bears on Farben's initiative. Schnitzler concludes by saying that the help of the German government only started in Wiesbaden and before that the proposals were pretty much Farben proposals.

The next document, NI 5195, is already in evidence as Prosecution Exhibit 1056. I would only like to call Your Honors' attention to page 171 of the English. That is page 185 of the German. Could I trouble you to read this summary concerning Farben's policy towards the occupied countries, at least in part, because it will save drawing a lot of deductions from other sources, I think.

"Concerning the general policy towards the economy of the occupied countries, I would like to make the following summary. Beginning with the occupation of Austria, it was plain from the statements of the government leaders that the 'Grosswirtschaftsraum-Politik....'

a phrase that comes in again and again.

"that the Grosswirtschaftsraum-Politik would be applied to the economies of each of the occupied countries. The general objective was to realize a more intimate relationship...."

It's a rather delicate phrase.

"...a more intimate relationship between the economy of the old Reich and the economies of the occupied countries under German leadership. This German leadership was either effected by the leadership and supervision of state controlled agencies, such as the Hermann Goering Works, or by private German enterprises under conditions satisfactory to the Reich economic authorities."

I am reminded there of the question that was asked by Judge Morris several days ago. You will note that it's rather difficult to determine when the state is acting and when a private company is acting in connection with these economic matters and even if orders of the state were a defense here, it does seem to us that this interconnection in the planning with respect to the exploitation of occupied countries is so close and its general nature so well known to the participants that it is very difficult to talk about where the state policy began and where the private policy as pursued by some of these gentlemen here, at any event, began, and if you will skip down to the end of that page, the last few lines:

"As long as the war lasted, it was clear that the leadership and administration of the industries of the occupied countries had to be done on behalf of the German military potential. Otherwise the Reich government would have seen to it that a different leadership or administration was created."

We then skip over the next four documents, Your Honor, and we come to Document NI 4846 which may go in as Prosecution Exhibit 1260. That's at page 183 of the English and page 202 of the German. There we have a reference, in a meeting of the enlarged Farben committee, at which two of the defendants were present, to the following, near the end of the document:

"Cooperation with the French dyestuff industry has proved itself to be good and the commitment of Francolor for Wehrmacht manufactures has, on the whole, worked well."

This is exploitation in connection with the continuation of the war on behalf of Germany while there are still armies in the field.

Now, the last document in connection with our presentation, is NI 10541 which may go in as Prosecution Exhibit 1261. This is a judgment rendered by the Tribunal of the Seine in Paris on the 3rd of November 1945, which declared that Farben's participation in Francolor constituted a "spoliation" and was therefore null and void.

Mr. President, and Honorable Members of the Tribunal, in view of the question which was raised previously concerning such judgments, may I make a statement which will not only bear upon this document, but upon the similar documents we have or will submit in connection with spoliation in France where French courts have entered decrees in order to reconstitute, at least to some extent, the situation prevailing before the German invader came upon the scene.

The French decrees we have already submitted in evidence were the following:

In the Winnica case, that is Exhibit 1166 and is found in Document Book 56, and then, in the case of Norway, Exhibit 1212 which is in

Document Book 65.

This type of procedure which is covered by the decisions we have offered is not a type of procedure where two parties are fighting against each other, a plaintiff and a defendant, and it is not a criminal case. In fact, I.G. Farben was not represented and none of these defendants, of course, were then on the scene. The party making the motion was the French Government and this applies in all three cases. The French Government was represented by the Attorney General and he filed a motion with the court. He based his information on the archives in the French Ministry of Finance and the archives from the armistice Delegation at Wiesbaden and Paris and on other official material dealing therewith. On the basis of this information, the Attorney General of France initiated the procedure. The judge issued his order on that basis. He declared that the transactions involved were null and void and there is the crucial point from our point of view, on the strength of the Inter-Allied Declaration against spoliation of the 5th of January 1943, he declared this whole type of transaction to be a spoliation and therefore null and void.

THE PRESIDENT: Now, Mr. Prosecutor, what is your view as to what fact that establishes in the trial of this case? Is that conclusive, is it a circumstance, or just what is it?

MR. SPRECKER: Well, it's certainly not conclusive, Your Honor, with respect to the criminal guilt of any of these defendants. I wouldn't even suggest that it was conclusive with respect to whether or not a spoliation was committed in France, but it is the kind of document which is an official report of another government of which we ask you to take judicial notice and which is provided for under Article IX of Ordinance 7, because we think it might be helpful to Your Honors, as any other decision of a court which concerns itself with international law might be helpful to you, in showing that this type of act which we have been describing has been found to be spoliation within the rules of international law.

Do I make myself clear?

THE PRESIDENT: I think your position is clear, but I am not yet satisfied as to what weight, if any, those judgments of other courts are entitled to have by this Tribunal. You're no doubt familiar with the well-known principle in Anglo-Saxon law, Anglo-American law, that where there is a Tribunal with jurisdiction, parties before the Tribunal, certain facts are litigated and a final decision reached, those facts are considered to have been settled and determined, as between the parties, forever and for all purposes. Now, I take it from your remarks that you do not claim that, with respect to these matters. If that is true, that it is not conclusive, *res adjudicata*, and I say again that I assume that's not the position of the prosecution, then I wonder what probative value this does have. Don't take your time now, but sometime, when we get into the argument of the legal phases of this evidence. I'll personally be very anxious to have your views and the benefit of your research on that proposition.

MR. SPECHER: I only want to state this. Of course, any country may constitute a court to sit and entertain questions concerning violations of international law. Now this Tribunal of the Seine was constituted to sit and to hear this particular case with respect to the spoliation involved here, as far as it effected France, and that court, sitting in that capacity, made its decision. Now, we have certainly not meant to suggest by this, Your Honor, that it had any bearing concerning the criminal responsibility of these individual defendants, exception so far as it indicated the way the French court handled the matter, and that they were relying on this Inter-Allied Declaration which we submit as a further codification of international law and which we, therefore, brought to Your Honors' attention.

THE PRESIDENT: Well, it is my offhand judgment that your confession and admission gets pretty near the border of saying that this does not have any probative value in this case. But that is for the Tribunal, and as I say, at the proper time we will be very glad to

hear you and the defense as to whether or not this document does have any value in our considerations.

DR. GIERLICHES (Defense Counsel for defendant Schmitz): Mr. President, when the first of these type of documents were presented I had already wanted to ask the prosecution for some more information to be allowed to reserve my final position to these documents. I myself am of the opinion that, according to the statement which the prosecutor has just made, these documents cannot have any probative value in the present trial. This is not a bi-lateral proceeding in which both parties have an opportunity of stating their point of view. It is rather, according to the statements which Mr. Sprecher has just now made, a political act of the French state and I should like to point out especially that, in my point of view, the use of the word "spoliation" as it is done in the index might be misleading because it creates the impressions of the layman as though this French tribunal had interpreted the word "spoliation" to mean the same things as are being charged here in this proceeding. Apart from the fact that, in my German edition, I haven't been able to find this word, I believe that false conclusions might be drawn from this document, which I personally consider completely irrelevant and for which reasons I should like to make the motion not only to reject this document, but also the other two documents which Mr. Sprecher has just now mentioned, for reasons of being completely irrelevant in the present proceedings.

MR. SPEECHER: Your Honor, I only want to make reference to one factual remark, to begin with. If you look over on page 186 of the English and page 212, top of the page, of the German, you will find that reference is made to "acts of spoliation committed by the enemy or under enemy control" and the French word is "spoliation" and if ever there was a plainer use of the word "spoliation" I have never seen it.

I think that we are clearly within our rights in offering the

documents. It's only a question of their probative value and we have indicated that we place a certain limited value on that, and we quite recognize that Your honors may even have a different view, but it does seem to us that we have placed before you some rather significant steps in the development of international law and that, for what they're worth, they should be taken to account by the Tribunal.

JUDGE MORRIS: May I suggest how this matter appears to me individually? This judgment really comes here bearing two aspects. As the judgment of another court, dealing with the question of spoliation, it has a certain interest to us, undoubtedly, as a precedent. That is a decision and a determination by another court dealing with a similar question and, as a precedent, it is, I am certain, entirely proper that it be called to our attention.

The other phase of this judgment, however, is evidentiary, and that is perhaps, at least in my mind, a little more difficult to solve because it deals with the same property or, at least in part, with the same property with which we are involved here, without an opportunity of the defendants who are here charged with a crime of being present in that court and contradicting whatever testimony was submitted to them. I think, however, that that goes largely to the probative value of the exhibits, as suggested by the President of this Tribunal, and that, at least as a precedent, indicating a decision of another court, it's properly before us.

THE PRESIDENT: Enough has been said about this to indicate to counsel that it is a matter that will bear some further consideration. The evidence has been offered, counsel for defense have objected to it, and when we come to the argument of the case we shall expect that some time be devoted to the question of the probative value of this evidence. I think we've said enough on it for the time being, but the record does indicate that this evidence has been received subject to objection and that the Tribunal desires further light on the legal phases involved.

MR. SPEECHER: Mr. President, I wasn't quite certain from the record as to whether or not previously Prosecution's Exhibit 1166 and Prosecution Exhibit 1212, when offered, had been received, and just to keep the record straight, I would like to reoffer them again at this time, along with this document, Prosecution Exhibit 1261, so that the record will be clear.

THE PRESIDENT: They will be received on this theory that we're not here trying a case before a jury that might be prejudiced by hearing evidence that was afterwards determined to be incompetent. The Tribunal will accept the evidence with the reservation that in the final consideration of the case, it will disregard the same, if it is concluded, after we hear the legal argument, that it has no probative value.

MR. SPEECHER: That concludes the presentation of our streamlined proof with respect to Francolor.

THE PRESIDENT: Now, just one other matter. There was a question raised a few moments ago with reference to Document 3707, Exhibit 1248, in Book 57, as it related to the German text. Have you reconciled that difference so we do not have the record open on such matters?

MR. SPEECHER: We have no objection to the suggestion made by counsel and so stipulate.

THE PRESIDENT: Then the record will so disclose.

The Tribunal will now rise until 1:30.

(A recess was taken until 1330 hours, 27 October 1947)

AFTERNOON SESSION

THE MARSHAL: Military Tribunal VI is again in session.

MR. SPRECHER: Mr. President, Dr. Newman informs me that the presentation on Rhone-Poulenc will probably take approximately one hour and could I suggest to Your Honors that thereafter we have the afternoon recess so that the last minute arrangements concerning witnesses could be put in order.

THE PRESIDENT: Very well.

MR. SPRECHER: And we can also give notice to your secretaries concerning the books, and for defense counsel I might say that notice has been given on all the people involved in the regular normal way and I attempted to make an estimate, as you will recall; at the last session, as to who would be here. Those estimates are made as an additional help. We can't always live up to them because of exigencies of the administrative arrangements involved, and we would plan to put on this afternoon the following witnesses: Diels, Doack, Rupp, and, possibly, Kuepper, K-U-E-P-P-E-R.

I'm sorry for the interruption.

DR. NEWMAN: If Your Honors please, we shall now turn to Books 59 and 60, dealing with Rhone-Poulenc. This is the second part of our spoliation case in France and we should like to give Your Honors a short introduction as to what our evidence is going to establish so that thereafter we can go more quickly through these two books.

Rhone-Poulenc was the most important French enterprise in the field of pharmaceuticals. There existed, before 1940, several agreements between Rhone-Poulenc and I.G. Farben. Apart from these contractual relations, the patent situation in France was such that pharmaceutical products could not be protected in France so that everybody in France, including the Rhone-Poulenc was entitled to use and did use any



trademark, among them the trademark Aspirin. After the downfall of France, the defendant Mann tried to secure for Farben a 51% participation in Rhone-Poulenc and advised the Farben Vorstand accordingly. Since the Rhone-Poulenc factories were mainly located in the unoccupied part of France, it was not as easy, in this case, as it was in the Francolor case to bring the Rhone-Poulenc down to its knees. Mann, therefore, called upon the German government agencies in both Germany and France, to wit, the agencies of the military government in France, and procured what Farben called "Government pressure" in order to attain its goal. In the discussions with Rhone-Poulenc, the defendant Mann, at least in the beginning, did not appear personally, but used the services of a man named Faure-Beaulieu who had relations of long standing with I.G. Farben and was also personally acquainted with the defendant Mann. Although the Nazi Government was passive in this case, Mann asserted that he acted on behalf of the German government and that the German government planned to introduce a new patent law in France which, in fact, was suggested to the Nazi Government by I.G. Farben and that, under the circumstances, Rhone-Poulenc would be wise to come to terms with I.G. Farben now rather than wait for the peace treaty which would undoubtedly be more unfavorable to Rhone-Poulenc. Rhone-Poulenc, however, in spite of all that, was first adamant on excluding Bayer from any participation in Rhone-Poulenc and also refused to organize a joint sales company in which Farben wanted to have a 51% participation, but when defendant Mann declared that, under these circumstances, he would consider his government assignment disposed of and could no longer attend to this matter and that this would be to the distinct disadvantage of Rhone-Poulenc, they themselves suggested that they should pay to

I.G. Farben a yearly payment which was labeled "License fees". Farben took up this suggestion at once and on December 30, 1940, the so-called license agreement was entered into between Rhone-Poulenc and I.G. Farben, which, in the course of three years, led to payments in excess of forty-two million French francs to Farben. This is the first part of our case Rhone-Poulenc.

Shortly after this agreement was entered into, this license agreement, Farben again came back to its old suggestion to acquire a participation in the capital stock of Rhone-Poulenc itself. This time Rhone-Poulenc chose, as a lesser evil, the organization of a joint sales company for which purpose a company, controlled by Rhone-Poulenc, was to be used, the company Therexlix. Even now, Rhone-Poulenc however, refused to grant Farben a 51% participation in such sales company. It was therefore arranged between Farben and Monsieur Faure-Beaulieu, without the knowledge of either Rhone-Poulenc or the French Government, that Mr. Faure-Beaulieu....that each party should take over 49% in the new corporation and that the 2% which Mr. Faure-Beaulieu was to take over, as a neutral person in a key position, in fact, he was to take over for I.G. Farben. This is the second part of our Rhone-Poulenc case.

May I assume that Your Honors have before themselves Book 51 where the New Order is in our Exhibit 1051. This is page 155 of the English book. I should like to shortly quote from this report as far as the pharmaceutical industry is concerned. May we first turn to page 170 of Book 51 where, in the middle of the page - that is page 516 of the German book - where, in the middle of the page under #3 "Pharmaceutical production" reference is being made to the most important French pharmaceutical firms. The first two

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of them listed here were later merged, as a footnote on this same page shows, were later merged into Societe des Usines Chimiques Rhone-Poulenc and that is the corporation with which we have to deal. I would also like to mention in this connection that in the contracts which we shall submit, not only Rhone-Poulenc played a part, but also another corporation connected with Rhone-Poulenc, Specia. Since, however, the negotiations were conducted by Rhone-Poulenc, we are not going to make any special reference in future to Specia.

On the next page, that is page 171 of the English book and 521 of the German, Farben shows its full knowledge that there was no patent protection in France in the field of pharmaceuticals. I quote from this page, again in the middle - it's the third line of the second paragraph:

"No legal steps could be taken against marketing of the French imitated products, which, in most cases, were undeniably infringements of the German patent law, because France has no protection by patents for pharmaceutical products."

And again on the next page—that is 172, and 526 of the German book, at the end of the sixth paragraph—the trade-mark Aspirin is granted to us—"that is, Farben—" was used in France by eight companies." Then, in the end of this report, on page 193 of the English book and 534 of the German book, Farben's objections in the field of pharmaceuticals are contained, and I quote from No. 3, letter "a"; "All rights derived from the trade-marks used in the pharmaceutical field which were seized previously should be restored. All trade-marks which were seized during the world war—that is, the first one—" and which, after the war, were treated as free trade-marks because of our inability to protect them through legal channels and which thus became inaccessible to us, must be restored to the owners and registered and protected with retroactive effect." We lay particular stress upon the words "with retroactive effect."

And from the next page—that is 194 of the English book and 586-587 of the German book, letter "d": "The German part has pointed out the necessity of organizing the whole pharmaceutical industry in greater Europe under the leadership of the German pharmaceutical industry in such a way as to achieve its great objective in the most direct way possible. In the interest of these plans, it is therefore necessary to define precisely future activities of the French pharmaceutical industry." And the next paragraph: "The French pharmaceutical industry should be compelled to restrict its activities to the domestic market." And in the middle of the page: After some agreements were suggested, Farben says "These agreements should stipulate that the licensing agreements between ourselves and the French firms"—and here we have Speica—that is "Societe Parisienne d'Expansion Chimique, Les Laboratoires Francais de Chimio-Therapie, Paris, and Societe des Usines Chimiques Rhone-Poulenc which were concluded under political and economic circumstances different from those existing at present, and which refer to important special pharmaceutical articles, should be abrogated." Here Farben refers to existing agreements. There was a mistake in that, and I would like to invite Your Honors' attention to that part of the Norwegian New

Order, where Farben stresses the point that its agreements with Norwegian firms--among them Norsk Hydro--were just suspended, but not eliminated by the war. But here Farben takes the position that these agreements have been definitely eliminated. And then the last quotation from this report, on page 195, and 590 of the German book--that is the second paragraph: "On the French side, this New Order established in our mutual relations would have to be supplemented by a decree forbidding the construction of plants producing pharmaceutical products. In addition, a number of small and unimportant laboratories, most of which are of local importance only, should be closed."

We then come to Document Book 59, and first submit Prosecution Exhibit 1262; that is NI-7992, a comprehensive report by Farben's VOWI on Rhone-Poulenc. On the second page of this report-- this is page 2 of the English book and page 12 of the German-- Farben says: "Practically speaking, Rhone-Poulenc obtained in this way a monopoly in the French market for many products, especially in the pharmaceutical field." We also learn here who is the main representative of Rhone-Poulenc, whom we shall meet in the course of our presentation, particularly its president, Albert Buisson, its Technical Manager Marcel Bo, its business manager Blaise, and Monsieur George Wendling, one of the directors of Rhone-Poulenc.

We attach particular importance to the next document, which already was submitted by Mr. Sprecher this morning as Prosecution Exhibit 1241. This is NI-6839, part of our English Document Book 57. This, as Your Honors will recall, was the conference between some representatives of Farben, led by the Defendant Mann.

DR. TUERCK (Counsel for Defendant Mann): Mr. President, I should like to point out to the Tribunal that this document was offered this morning in Document Book 57, as Exhibit 1241, and was at that time the subject of an objection on the part of Dr. Haensel. In order to avoid repetition, I should like to refer to the statements of my colleague, Dr. Haensel, and reserve all rights.

THE PRESIDENT: Very well.

MR. NEWMAN: This document shows Farben's initiative in the most outspoken way, and also its suggestions, and I would like to quote first from page 6 of the English book, which is page 3 of the German book. These are minutes of a conference in Paris, of August 31, in the office for Economy and Armament, with Col Naef. "Naef was informed through the Counsel General Mann, of the Pharma interests and the Leverkusen plans. The goal and procedure used by Leverkusen were approved by Naef, although, however, he emphasized the fact that their effect on the Rhone-Poulenc production in the then unoccupied zone might meet with certain difficulties. Naef hopes, however, to counter-act these difficulties for our I.G. interests by introducing his plans for a compulsory authorization for the resumption of production..." And then from the next page, 7, again dealing with the discussion with Col Naef--that is page 9 of the German book, before the letter b: "In conclusion, arrangements were made to maintain a regular contact with Naef in Wiesbaden and Paris. Naef is willing to put himself at our disposal for further consultation."

The next page, 8, deals with discussions--that is page 10 of the German book, the end of page 10--Farben had with Dr. Michel, War Administration Counsel; I quote: "With respect to the pressure which we felt might be necessary in the sphere of the negotiations planned for private economy, he pointed to the fundamental necessity of calling on the Department for Industrial Economy or the Chemical Group in the Department of Economy, France."

"He declared that he, himself, was ready, on the occasion of his frequent conferences in Paris with the accredited Secretary of State of the French Ministry of Production, to refer to the wrong which had been caused by the patent system to the German pharmaceutical industry and to the increasing burden which was thereby being created for the future of French industry. In this way he hoped to help us with respect to the difficult problem of acquiring control over the Rhone-Poulenc production situated in the then unoccupied zone (of France)." And from this same

THE PRESIDENT: Very well.

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page, 9, of the English book, and page 11 of the German book, referring to discussions with the War Administration Council, Dr. Kolb, I quote: "The result of the detailed exposition made by Consul General Mann was that our point of view with respect to the treatment of the Pharma complex was admitted on principle by both gentlemen. With regard to separate items, the following decisive points seemed especially worthy of note:"

"a) The settling of the Pharma complex through the channels of patent legislation would doubtless be an excellent solution but has the drawback that this solution will probably take a long time to materialize as it is bound up with the French legislation and the peace treaty. For this reason it would seem advisable to seek an interim solution through the channels of private economy."

And letter "b" -- that is now page ten of the English and 12 of the German book: "Considerable difficulties will certainly arise from the fact that Rhone-Poulenc is situated in the unoccupied zone, as our chances of gaining control there are very slight. For this reason, Dr. Kolb --"that is one of the Government representatives--" suggests that we should endeavor to acquire direct influence both in the occupied and unoccupied zones by the exercise of control over the allocations of raw materials."

And from the same page, page ten, the bottom of the English book and page 13 of the German book: "Discussion of this complicated situation gives rise to the question whether in analogy with the dyestuff field a special settlement can be found for Leverkusen through the exclusion of the Pharma part of Rhone-Poulenc."

And letter "d", next page: "The conclusion arrived at after the debate is the recommendation that an agreement with Ungewitter"-- head of the German Dyestuffs industry--" connections must be established with Rhone-Poulenc at whatever appears to be a psychologically suitable moment in order to come to a sound agreement as regards private economy. Bolek and Kolb are at our disposal to exercise pressure for any such future transactions, should it appear desirable in the course of the development. At the discussion of the dyestuff sector which brought up no new points

of view, it was announced that objections had been made to the authorization procedure proposed by Naef. In spite of this, for purposes of information, Bolck was given the text of the Farben memorandum which had been sent to Naef for the authorization procedure." The Farben memorandum referred to in this last sentence is not before us. It appears, however, from the context that Farben had prepared and submitted to Col Naef in Paris a memorandum suggesting the introduction of an authorization procedure for the resumption of production.

Our next document was again submitted this morning as Prosecution Exhibit 1242. English Book 57, pages 49-50, and the German Document Book 57, pages 56 to 57. We would like to refer here only to the remark of the author of this letter, Defendant Kugler, that he assumes that Mr. Mann's reference to a 51 percent capital participation in connection with the reorganization of Farben's relations with Rhone-Poulenc was omitted from the report on purpose.

We offer in evidence as our next exhibit, 1263; that is NI-10399. This is a memorandum on the conference of the Defendant Mann again with Dr. Kolb, and Dr. Michel, of October 5, 1940, in Paris. Again here the point is stressed that Mr. Mann had reached full agreement with the German Military Government, and he also says-- this is October 5-- that he will now ask Monsieur Faure - Beaulieu to take up negotiations with Rhone-Poulenc.

Our next document is 1264, NI-8613. Mr. Faure-Beaulieu, mentioned in our last document, had acted at once and contacted Rhone-Poulenc. And in this letter he incloses a memorandum explaining the general principles in view of an agreement between I.G. and the Societe Rhone-Poulenc. This memorandum was handed over by Farben to Rhone-Poulenc at their request. May I refer to page 22 of the English book? That is 31 of the German book. I refer particularly to the first number of this memorandum and to the last number: both of them referring to the imposition, to be expected under the peace treaty, against Rhone-Poulenc.

Omitting the next document, we offer Exhibit 1265. That is NI-8612. That is Rhone-Poulenc's report on what Mr. Faure-Beaulieu said in this first conversation he had with Rhone-Poulenc, dated October 9, 1940. The threats which are more diplomatically expressed in Rhone-Poulenc's memorandum appear somewhat more outspoken here, in Nos. 2 and 3 of this note.

We then offer our Exhibit 1266. That is NI-6800, being an excerpt of a report by Defendant Mann to the 79th Pharmaceutical Conference in Leverkusen, attended, among others, by Defendants Hoerlein, Brueggemann, Leutenschlaeger, and submitted here mainly because of the list of participants.

Again omitting the next document, we come to 1267. That is NI-7654. This is a letter signed by Defendant Brueggemann and one Dr. Revy, the latter a Farben director at Leverkusen, to the Reichsminister of Justice, dated September 4th, 1940, to which he remarks on the patentability on pharmaceutical remedies in France are attached. The complete outline of the French law and of how this law should be changed is given in this enclosure. It is stressed here that the new law should be imposed on the French as soon as possible, and if necessary even before the peace treaty is written.

We shall now offer Prosecution Exhibit 1268, which is NI-10471, a copy of minutes of a discussion of Defendant Mann in the Reich Ministry of Economics with Ministerial Dirigent Mulert, and others, evidencing,

among other things, Mann's discussions concerning Rhone-Poulenc. I would only like to quote from page 50 of the English book, which is page 60 of the German book. In the middle of the page.

"Consul General Mann stated once more that the creation of a corresponding patent protection in France for pharmaceutical products was one of the most urgent problems and must without doubt be tackled immediately. This was the more important since in the course of time the demands which Germany would make of France would decrease rather than increase."

DR. TUERCK (Counsel for defendant Mann): Mr. President, I should like to come back to Document NL-10399, Prosecution Exhibit 1263. I should like to point out to the Tribunal that this document is a file-note on a conference of Consul General Mann with Dr. Kolb and Minister Director Michel, and bears no signature. I should like to have the Tribunal consider this circumstance when determining the probative value of this document.

THE PRESIDENT: Does Prosecution have any comment to offer?

MR. NEWMAN: It is correct that it has no signature, but it is one of the captured documents and is submitted as such.

THE PRESIDENT: Then the objection would go to the weight rather than the admissibility of the document, and the objection will be considered in that light.

MR. NEWMAN: We are again omitting the next document and submitting Prosecution Exhibit 1269, which is NL-7629, being an account of two meetings, signed "Leverkusen, December 7, 1940, Schm" which stands for Schmitz -- but this is not the Defendant Hermann Schmitz, but Werner Schmitz, a Farben director at Leverkusen who frequently attended the Paris meetings with Rhone-Poulenc.

The meetings were also attended by the Defendant Mann and Farben Director Grobel, and on the side of Rhone-Poulenc by the president Buisson and others. Though each paragraph in this document is of importance to this case, in order not to take the time unduly we would like to confine

ourselves to a very few quotations.

First, on page 55 of the English book and 88 of the German book, Defendant Mann was again emphasizing that he was "conducting these negotiations on behalf of, and with the approval of, the German authorities and in agreement with other German manufacturers."

And from the middle of the same page: "The opposition from the French side was mainly directed against our implacable demand for a 'Bayer' majority in regard to capital, in which respect we want Bayer to have fifty-one percent, as against Rhone-Poulenc's forty-nine percent." But Rhone-Poulenc was so much disinclined to grant this demand that, as we see from this same page, in the end, 88 of the German book: "Bo—" one of the representatives of Rhone-Poulenc—" finally issued a threat to the effect that if the company we planned was established with the participations as intended, most of Rhone-Poulenc's employees would resign; he implied that he would be among them." But Defendant Mann, in his turn, now announced—and I am turning to the next page, 56, "....that he must return his assignment to the German government as a failure; and he hinted that the French side might later on regret its neglect of using the opportunity afforded by our present willingness to come to terms." And this again was the reason for Rhone-Poulenc, as the next paragraph shows: "Mr. Grillet then suggested, rather abruptly, that the negotiations should be continued on a different basis. He offered Farben yearly payments in compensation for those products in which our rights had been infringed...." and so on. So this was the game between Farben and Rhone-Poulenc in discussing the contract granting license fees to I.G. Farben. These minutes also refer to a second meeting held on Monday, December the second—this is page 57 of the English book and 90-91 of the German book; and it is interesting to note from this page that while both parties were now supposed to submit a draft of the contract to be entered into, Rhone-Poulenc contained itself to a preamble. We shall hear more about this preamble later.

Our next document is 1270. That is NI-8080, excerpts of the minutes of the 23rd Meeting of the Vorstand, on December 12, 1940, attended by the entire Farben Vorstand, except Oster and the late Vorstand member Weibel. It is submitted here only because of the list of participants. We omit the next two documents, and turn to Exhibit 1271. This is NI 6944, page 68 of the English book. This is the license agreement entered into between Farben and Rhone-Poulenc and Specia, on December 30th, 1940. We particularly stress the importance of the preamble to this contract where Rhone-Poulenc made, as a last attempt, its own attitude clear that there were no claims against it by Farben. I quote, from the first paragraph: "The Special Company, in adopting the trade-mark 'Aspirine' used the good aspirine with the same title as a large number of French manufacturers of specialties, for example, on the basis of the French laws concerning pharmaceutical trade-marks."

Farben, on the other hand, in the preamble, stresses the point that the former agreements have become null and void and that Aspirine and other trade-marks are still its own unrestricted property.

Our next document--and the last one in this book--is Prosecution Exhibit Exhibit 1272, NI-7646, a letter from Farben employee Krantz to Dr. Groebel, from which it appears that So, Director of Rhone-Poulenc, called on the German Government representative in Paris Dr. Kolb; in the course of his discussions with Dr. Kolb he told him, and I am quoting, the last words from page 74 of the English and page 112 of the German book ... "that Rhone-Poulenc had contracted the competent government agencies which, however, were not inclined to favor a joint sales company with a 'Bayer' majority, but considered the license agreement on the present basis to be lesser evil."

This concludes Book 59, and we turn now to Book 60. The first two documents in this book belong together. We first submit Prosecution Exhibit 1273, which is NI-10397, a letter by Farben to the management of Rhone-Poulenc and Specia. We particularly invite your Honors' attention without quoting it hear to the second paragraph of this letter, where Farben wants to have any reference to the German government eliminated from the contract.

(NEWMAN) The answer given by Rhone-Poulenc, our Exhibit 2274, and NI 7647 is particularly important because it again shows, and this is the third case in our presentation of spoliation, how the industry to be victimized tried to express its own attitude in the preamble to the contract or in the accompanying letter serving the same purpose.

I would like to read from this letter, page 3 of the English book, which is also page 3 of the German book, second paragraph:

"We did not wish to renew our discussions and thus delay signature of this agreement in the form sent to us, -- i.e. with the words, 'in agreement with the German authorities' deleted".

Now your Honors, please note that the next word must be "you" rather than "we". The first word of the next paragraph:

"You have, in fact, confirmed in that same letter written by you on 9th January 1941 that this suppression in no way altered the fundamental declaration according to which the former contracts had become invalid".

"We attach enormous importance to such a statement, for the demands made by you and the agreements which we finally signed were closely connected with a statement on your part regarding the opinion of the German authorities, in particular on the restitution of trade marks and the breaking of former contracts.

We understand that the German authorities have expressed a wish not to be cited in the text of a private contract, but that their opinion is still the same as when you described it to us; and this was an important factor in our decision."

We omit the next document, and submit it as Prosecution's Exhibit 1275 Document NI 8611, a letter by Farben signed Hoerlein and Mann, to the management of Rhone-Poulenc and Specia of March 26, 1941, evidencing another contract concerning future cooperation.

This contract has been submitted only in order to make later references comprehensive.

Our next document is Exhibit 1276, NI 7635; minutes prepared by Farben's Werner Schmitz on discussions in Paris with Rhone-Poulenc & Specia, on May 23 and 24, 1941.

Schmitzler reports that in accordance with directives given him by his own office he came again back to the old plan of Bayer's financial participation in the Rhone-Poulenc but was again turned down by the Bayer representative, but a joint sales company was now being discussed, this time with the approval of the French side.

The reason for this changed attitude is given by Farben representatives in the report before us, appears from page 10 of the English book, which is page 11 of the German book, and I quote one phrase from the bottom of this page:

"The reason for this unconditional and unexpectedly speedy agreement to the joint establishment probably lies in the fact that the Frenchmen were opposed to our wishes in regard to participation and regarded these joint firms to some extent as the lesser evil, especially as no real sacrifices are expected of them."

Omitting the next document we turn to page 17, that is NI 7640, prosecution's exhibit 1277; here again is a contract concerning the new corporations being discussed, and here we also see for the first time the arrangement that each party should take over 49 per cent in the new corporation, while Mr. Faure-Beaulieu as a neutral person should take over 2 per cent.

We also hear something about this new corporation which should be used as joint sales company, the Societe Anonyme Theraplix, of which they say on page 17, -- 18 of the German book, -- that:

"The Theraplix is well known to us as a firm of good standing with a good range of products, whose present

annual turnover is about Ffrs. 25 millions, and which during the past working year was able to show a net profit of Ffrs. 4 millions."

Omitting the next document we come to page 28 of the English book, and submit as Exhibit 1278, NI 7178, the first of five documents, all referring to the percentage to be taken over by I. G. Farben.

We are not going to comment any further on these five documents, but would just like to list their numbers.

Your Honors, we note when reading these five letters, that dependent upon the addressees of the letter, whether it was the German government or on the other hand Rhone-Poulenc, or the French government, the participation to be taken over by Farben being either the real percentage of 51 per cent, or 49 per cent for Farben and 2 per cent for M. Faure-Beaulieu when the spoke to the Government.

Our next exhibit in this connection is NI 7179, Prosecution Exhibit 1279. The next one, NI 1198, is Prosecution exhibit 1279.

THE PRESIDENT: 1280.

MR. NEWMAN: 1280. And the next one is Prosecution Exhibit 1281, NI 1933. From this letter I would like to quote from page 34 of the English book, which is 37 of the German, No. 2, entitled, "Participation of the IG. Farben-Industrie in the Theraplix".

This is a letter to the Foreign Office, written by the German Armistice Delegation in Paris. I quote:

"This concerns the establishment of a joint sales-corporation of the German firm of BAYER and of the French firm Rhone-Poulenc for the purpose of which the firm Theraplix (capital French frs 5 mill), closely connected to the Rhone-Poulenc was used. Officially the German firm takes over 49% of the Theraplix capital whereas another 49% remain in the hands of the Rhone-Poulenc, and the balance of 2% is transferred to the possession of a joint trustee.

In fact, however, as I was told in strict confidence, also those 2% are actually at the sole disposal of the firm BAYER which thus practically is getting hold of 51% of the capital and thereby controls the French enterprise. By that participation a close cooperation and a communion of interests of the two big manufacturing firms have been safeguarded in the interests of the German economy."

And the last document in this connection is 1282, NI No. 8370.

This is a letter by the French government, granting the license in order to accomplish this transaction, and enclosed with this letter is a contract itself concerning the organization of Theraplix in its new form.

We are then submitting as Prosecution's Exhibit 1283, Document NI 6538, defendant Mann's affidavit of April 21, 1947, and we particularly refer to the admissions in No. 2, 3 and 4. Omitting the next three documents, the third one was referring to the payments made in France, and we would like to quote from the first decision of the International Military Tribunal, page 240, one sentence, in order to make clear again how the payments made by the German industry to the French industry were accomplished, and as it appears from our last document, I. G. Farben had to pay its 49 or 51 per cent in Theraplix by paying about 25 million French francs to the French group.

Now as to these payments, this is what the IMT says, I am quoting from page 240:

"In many of the occupied countries of the East and the West, the authorities maintained the pretense of paying for all of the property which they seized. This elaborate pretense of payment merely disguises the fact that the goods sent to Germany from these occupied countries were paid for by the occupied countries themselves either by the device of excessive occupation costs, or by forced loans in return for a credit

balance on the clearing accounts which was an account merely in name".

The payment we had in mind here was made for the clearing account.

Our last document in this connection is again the French decision which we should introduce now as Prosecution's Exhibit 1284, NI 6978. I would like to refer shortly to this decision of the French Appellate Division in Paris, declaring null and void the action we have just discussed concerning the license fees paid by Rhone-Poulenc to Farben, and also concerning Farben's participation in Theraplix. This judgment is not quite on the same level as the three decrees already submitted in that there were two parties to the procedure, a plaintiff to which the corporations concerned, Rhone-Poulenc, Specia and Theraplix, and as here we have a defendant, of course not I. G. Farben, Germany, and none of these defendants or their representatives, but the enemy property custodian of France in his capacity as custodian for the I.G. Farben assets in France.

I would like to state this here without anticipating our more general statements as to how these decrees were made.

THE PRESIDENT: Your last document, NI 9592 you are dropping?

MR. NEWMAN: No, I am sorry. This refers to the document, and it is the same. This is Mr. Gerthoffer's statement. We could call it 1285, NI 9592. This is Mr. Gerthoffe's statement that the French judgment is no longer subject to appeal, and that he has seen the original.

THE PRESIDENT: Mr. Dubois, do you have any announcement to make before we take the recess?

MR. DUBOIS: This concludes, your Honors, all of the documentation upon spoliation with the exception of the open question on the Russian documents, and we have planned to go on with witnesses. I think they will be here any minute.

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THE PRESIDENT: We told Mr. Sprecher, I do not know whether you were present, that we would take a recess at the conclusion of this book in order that you could arrange about your witnesses, and we have plenty to talk in chambers about this matter, and if you will see that we have word when you are ready to proceed, we will come back to the bench.

We will now rise.

THE MARSHAL: The court will recess until the prosecution is ready.

(Court in recess)

THE MARSHAL: Military Tribunal No. VI is again in session.

MR. SPRECHER: The first witness will be Rudolf Diels. The document book, Your Honors, is 49, page 58 of the English and 76 of the German.

THE PRESIDENT: The Marshal may bring in the witness.

MR. SPRECHER: Mr. President, the prosecution plans that the direct examination shall be about 5 minutes long.

THE PRESIDENT: Thank you.

The prosecutors have just one affidavit from this witness?

MR. SPRECHER: Yes.

RUDOLF DIELS, a witness, took the stand and testified as follows:

THE PRESIDENT: The witness will remain standing and raise his right hand, say "I", and state his name.

THE WITNESS: I, Rudolf Diels —

THE PRESIDENT: And now repeat after me: — swear by God, the Almighty and the Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

The witness may be seated.

The prosecution may proceed.

MR. SPRECHER: Mr. Witness, in case this yellow light blinks, that means you are speaking too fast, and please speak slowly.

DIRECT EXAMINATION

BY MR. SPRECHER:

Q Will you repeat your full name again for the reporters?

A Rudolf Diels.

Q And what is your present address?

A Hanover, Kaltenweide.

Q At the present time do you have any occupation?

A No.

Q Now, what was your position at the beginning of the year 1933? Please state very briefly.

A I was Oberregierungsrat and Deputy Chief of Department I-A of the Berlin Police Headquarters, which department, in June, was separated from the Police Headquarters and was then called the Secret State Police Office.

Q What jurisdiction did this Secret State Police Office have?

A Its competencies referred to political matters, that is, the combatting of high treason.

Q Did the jurisdiction extend beyond Berlin for any purposes?

A Yes. The immediate authority of this office, as far as they had any executive authority, referred to Berlin only. If they wanted to do any service outside of Berlin, they had to get authorization from the Minister of the Interior.

Q Did the office give information to the Ministry of Interior?

A Yes, that was its job.

Q Now, when did Department I-A acquire another name, and what was that name?

A At the beginning of June it was called the Secret State Police Office.

Q That is, Gestapo?

A Yes, that was the office of the Secret State Police.

Q Tell us whether or not the successor of that office was finally the Gestapo.

A Yes. Later it was enlarged considerably and it then became the Gestapo, in connection with the SS.

Q Now, in your affidavit which is before us here, you made certain statements concerning the defendant Ilgner. Have you a copy of this affidavit before you?

A No, I don't have it.

THE PRESIDENT: The record may show that a copy of the affidavit was handed to the witness.

BY MR. SPRECHER:

Q You checked over another copy of that affidavit with Mrs.

Kaufmann and me today, is that correct, witness?

A Yes.

Q Are there any inaccuracies in the affidavit?

A No.

Q Now, I have but one additional question. You state here that "Herr Ilgner offered me the service of this news agency of Farben in connection with news from abroad." Tell us whether or not you or your office, so far as you know, had requested such information from Dr. Ilgner and his agency.

A No.

Q What do you mean by that?

A No, we had not requested that.

MR. SPRECHER: No further questions.

THE PRESIDENT: The defense may cross-examine.

CROSS EXAMINATION

BY DR. NATH (Counsel for the defendant Dr. Ilgner):

Q Witness, would you please be kind enough to answer a few questions in connection with your affidavit?

First of all, I have a few supplementary questions as to your person. Is it correct that before 1933 you were an official in Severing's Police, that is, the Social Democrat Minister of the Interior?

A Yes.

Q When the National Socialists gained power, you remained with the police and were taken over?

A Yes.

Q Is it also true that in 1933 you were not a member of the Party and did not belong to the SA or to the SS?

A Yes, that is correct.

Q Am I informed correctly if I say that at that time, in 1933, you gained certain merits by combatting wanton acts of terror of the SA?

A Yes, that is my opinion.

Q Later, in your office, did you have difficulties with SS Gruppenfuhrer Nebel, from the Reich Office of the Criminal Police, who had been a National Socialist even before 1933?

A Yes. He was my opponent.

Q Did these differences of opinion that you had with Nebel, and other reasons later on; result in your having difficulties with the Party, and therefore you had to resign from your office later?

A Yes. In October of 1933 I had to resign from my office for the first time, because of these differences with Nebel and other persons.

Q Who was chief of the Prussian Political Police in 1933?

A Goering.

Q You say, Mr. Diels, that at the beginning of September of 1933 you made the acquaintance of Dr. Ilgner.

A Yes.

Q That was fourteen years ago. After such a long time, of course, it is somewhat difficult to remember details of a conversation which only lasted a half hour, according to what you say in your affidavit.

A Yes.

Q Therefore I should like to refresh your memory and tell you, first of all, that Dr. Ilgner too remembers that he saw you only once at that time. However, he is of the opinion that this conversation took place in the presence of a witness. Is it possible that another person was present during your conversation?

A As far as I remember, one of my associates was present, Public Prosecutor (Staatsanwalt) Volk.

Q Staatsanwalt Volk?

A Yes.

Q Would you please be kind enough to spell the name?

A V-O-L-K.

Q Thank you very much.

In your affidavit you say that Dr. Ilgner offered you his foreign news agency, which he wanted to draw up. As you state yourself, you had nothing to do with such a foreign intelligence service. Therefore, when Mr. Ilgner spoke to you about this, didn't he speak to someone who was completely incompetent for this matter?

A One could not say completely incompetent, but we did not have any special interest in this offer.

Q Was there any other agency to which he might have turned in making such an offer?

A Yes, perhaps the Intelligence Service of the Army, Admiral Patzig.

Q Mr. Diels, I should like to put to you the fact that Dr. Ilgner, at the very moment before he came to you, had returned from a business trip in Scandinavia and the Baltics, particularly Sweden. He had personal relations in Sweden because his wife comes from there.

I should like to find out from you what this so-called intelligence service of Ilgner's really was. Witness, I believe I am not mistaken if I say that, by reason of your position and versatile experiences, you knew something about the distresses and worries of industry yourself, especially the export industry.

Witness, can you remember the effects abroad of the boycott against the Jews in 1933?

A Of course.

Q The boycott against the export of German products?

A Of course.

Q That was, especially at that time, a very unpleasant affair. Furthermore, do you know, perhaps, that, especially in the Scandinavian countries, in 1933, people were very severely criticizing the institutions and measures of the Third Reich?

A Yes, I know.

MR. SPRECHER: I would like to move to have that stricken out. I can't see the connection to the proper scope of cross-examination.

THE PRESIDENT: Well, it does seem quite remote to anything that is in this affidavit, and unless counsel for the defense can advance some theory as to why this question is proper, I think the objection is well taken.

DR. NATH: I believe that I shall be able to do so, Mr. President. I believe I can show you the connection.

In his affidavit, the witness merely stated the fact that a news service had been offered to him, and it is important for the defense to determine what the contents of this conversation was, or what the nature of this so-called news agency was. As my next questions will show, this news agency will have a character which is quite opposed to the character the prosecution in my opinion attributes to it. I shall be very brief and come to the point very shortly. Please permit the question.

THE PRESIDENT: We think the question is clearly improper. Now

you may ask him as to whether or not anything was said or what was said with reference to the use of this term of foreign news service, but as to going into the question of what the foreign news service was, that is a matter of defense for which you can have full opportunity when we get into the defense, to make whatever explanation you may wish to make as to what was said between the witness and the defendant Ilgner about foreign news service or any other matter that is embraced within the contents of this affidavit, is proper. But to go aside from that, to inquire collaterally as to what this foreign news service was, would be a matter of defense and not a matter of cross-examination.

The objection will be sustained. You may ask anything you care to about this affidavit, but to go into another feature as to what the foreign news service was would be a matter of defense.

DR. NATH: Mr. President, I believe that I shall do so. That is, I shall not enlarge on the nature of this news service in my cross-examination. However, I should like to discuss with the witness what the subject of discussion was during that half hour and what the character of this allegedly offered news service was. That seems to me to be relevant.

THE PRESIDENT: That would be entirely relevant. Counsel is correct.

BY DR. NATH:

Q Witness, the trip of Dr. Ilgner that I just mentioned gave him an opportunity to gain a strong impression of the critical attitude of these countries against Germany. You know that Dr. Ilgner of I.G. was the representative of a firm which was the largest German export firm. Do you recall that Dr. Ilgner came to you in order to express to you his worry and his impressions about the critical attitude prevailing abroad so that you might be afforded an opportunity to pass this on to the competent agency for discussion, and so that you, in the interests of German export, might see to it that these bad conditions would be stopped? Do you think it is possible that the conversation took that

course?

A I can't answer that question yes or no; I might have to go a little more into detail.

Not much resulted from this conversation that I remember. The personality interested me more. Farben had the reputation of a democratic enterprise at that time. The subject matter of what Mr. Ilgner told me was not of great interest to me, and therefore I, at least, did not deal with the subject matter of this affair. True enough, it is possible that Dr. Ilgner wanted to make me his ally for his intentions, he wanted to pursue abroad in the direction that you have indicated.

Q At that time did you know that Goring was especially interested in Sweden?

MR. SPRECHER: I object.

THE PRESIDENT: The objection is sustained as to that. What we are concerned with is that you may exhaust the subject as to the conversation between the defendant Ilgner and the witness as related in this affidavit. There are no limitations on you in that sphere.

DR. NATH: Mr. President, I believe that the question formulated by me is also in very close connection with the affidavit. Please excuse me, but if it is correct that the witness was able to report to his chief about these matters of Sweden, things that his chief was interested in, then the motive and intention of Dr. Ilgner is supported in turning to this witness and expressing his worry and care about the critical attitude abroad. This gives me an opportunity to demonstrate the contents of this alleged offer for further news that were to be furnished in this connection.

THE PRESIDENT: The direct way to do that would be to ask the witness if the matter of Sweden was discussed in the meeting. You may do that. We have no objection to that at all, but we must limit this cross examination to the matters covered in the affidavit. If you think the affidavit is not complete, does not tell the whole story of the conference between the witness and Dr. Ilgner, you can ask him further about it. Even suggest subjects that you think may have escaped his notice or memory.

BY DR. NATH:

Q Witness, you heard the words of the President. I should like to ask you -- it is difficult to remember details after fourteen years. Is it possible that you discussed Sweden?

A It's very possible. It was more or less of a confused conversation. Nothing resulted of it for me. I only remember that the subject of the conversation was our discussion of the fact of how we, the police, might utilize a source of information, of course for the benefit of Goering. We discussed foreign trips. We discussed trips in Germany and, possibly, also what you say, but I cannot give you any more information. I don't remember any more.

Q Was the subject of the news agency the sole subject of your conversation, or was this only treated as a side issue and did you have other conversations?

A Herr Ilgner didn't come to me saying right out: "I offer you a news agency." But probably had the intention to get acquainted with me; I had the impression it was a visit in which he wanted to make this offer of support, but we discussed other things too. Not only the news agency.

Q Witness, you were a man of order at the time. Those were the questions I aimed at at the beginning of my examination. Do you consider it possible that Mr. Ilgner came to you to make your acquaintance for that purpose?

A Yes, that's possible.

Q Did other personalities from industry come to you for that purpose in order to make your acquaintance and talk to you?

MR. SPRECHER: Objection.

THE PRESIDENT: Well, he may answer that one question.

THE WITNESS: Herr Ilgner was the first, as far as I remember. Later on, a few others known to me personally, representatives from industry, came to me who knew precisely about my intentions and whom I knew personally too. For instance, Otto Wolf who wanted to support me in a certain direction, or people.....

THE PRESIDENT (Interrupting): Mr. Witness, we are not interested in the details of the other visits. The Tribunal permitted you to answer that question because it might throw some light as to whether there was anything unusual or out of the ordinary in this conversation with the defendant Ilgner, but to pursue it further and go into the substance of conversations with other people would be beside the issue as far as this trial is concerned.

Ask another question, counsel.

BY DR. NATH:

Q Your conversation with Herr Ilgner took place without any results, if I understood you correctly. Did you consider the suggestions that Mr. Ilgner gave you, important and turn them over, for further work, to your office?

A I don't know what came of it because I resigned from office shortly thereafter. It was self-evident that the Public Prosecutor Volk, who was participating in this matter, reached some sort of agreement with Mr. Ilgner, but whether any results were achieved, I don't know.

Q You said just now that shortly thereafter you resigned from your office. Is it true that later, that is, six weeks later, you were recalled by Goering?

A Yes.

MR. SPRECHER: Just a minute. I can't see what that has to do

with this affidavit. I object.

THE PRESIDENT: Well, I believe that you did show that he did resign. If he was recalled it might dispel some theory that he forcibly resigned or was expelled or something of that sort. The objection to strike the answer will be overruled, but that again is approaching a collateral matter. You have shown that, although he did resign, he was recalled. That is enough.

BY DR. NATH:

Q I believe, Mr. President, that my next question will clarify the previous question.

Mr. Diels, after your recall, did you hear anything further about Mr. Ilgner's offer and take up this matter again? Did you ever again hear about this matter?

A No, I only stayed for a short while. In January of 1934, I resigned definitely and I only was recalled in December, 1933.

Q May I ask you directly, did you have the impression that Mr. Ilgner's suggestion to furnish you with news from abroad was an espionage-activity in the sense that this espionage activity would serve the preparation of a war of aggression? Was that the intention of Mr. Ilgner or was that ever to be evidenced from the conversation?

A No. In 1933 I didn't think about such matters.

Q May I ask you, Mr. Witness, whether Dr. Ilgner told you details about the organization of this alleged news agency that he organized?

A He told me details, but I can't remember them now. He told me how it was organized, what type of economic political information this news contained, but I don't remember the details. I merely remember the fact that he was in my office to discuss these matters.

Q Witness, do you know perhaps that with Farben in Berlin there was a Vowd whose purpose it was to utilize such commercial news from abroad, and is it possible that that was the subject of the conversation and the intended source of your information?

MR. SPRECHER: I object. I don't think we're concerned with

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MR. SPRECHER: I object. I don't think we're concerned with

all these possibilities here. They weren't stated in the affidavit.

THE PRESIDENT: No, within reasonable limitations, however, counsel is entitled to refresh the memory of the witness if he can, but that is not calculated to refresh his recollection to ask him what he knows about another agency. Counsel can, as the Chair has said, within reasonable limitations undertake to refresh the memory of the witness with reference to the things disclosed by this affidavit, and that is the visit of Dr. Ilgner to the office of the witness, and the conversation that they had at the time. That is the purport of this affidavit.

DR. NATH: Mr. President, I ask for your indulgence. The witness said that the organization of this news agency had been discussed and, for me, it is very important what he means by saying that. If I put to the witness that Vowi of this firm concerned itself with these matters, it is quite possible to ask this witness whether this generally known Vowi, that is, the Economic Research Department, was the organization created by Ilgner which collected these news and should transfer them to the witness.

THE PRESIDENT: There's nothing about that subject in this affidavit - nothing whatever. You may ask the witness, if you care to, if the subject of Vowi was mentioned or discussed there in that conversation, but certainly we are not concerned with what this witness knows, independent of this affidavit, about Vowi or any other organization.

DR. NATH: Mr. President, the affidavit is very short. There's practically only one word contained in it and that is news agency. You can make a lot of that or very little. What did you understand by this? And, for that reason, I asked the witness - he has already answered it - whether he talked about Vowi, the economic research department.

THE PRESIDENT: There's nothing further to be gained by that. You may ask another question. No use discussing matters that have been ruled upon.

BY DR. NATH:

Q Perhaps may I note in conclusion say this. Your affidavit is very short. Witness, do I understand you correctly that you say, first of all, you had the impression that Dr. Ilgner was not approaching you personally to discuss this alleged news agency, but to make your acquaintance generally as the new man in office? Is that right?

A Both were his intentions.

Q Secondly, may I state that in the course of this conversation, no thoughts, no words might lead one to believe that this offer had anything to do with the possible plan of a war of aggression? Is that correct?

A Yes.

THE PRESIDENT: Now, counsel, twice you have asked that. There certainly shouldn't be any reason for asking it a third time. I think the Tribunal understands what the witness said on that subject.

DR. NATH: I am very happy about that, Mr. President, but unfortunately, because of the objection of Mr. Sprecher, I had gained the impression that our conversation was somewhat torn apart. I believe I would have terminated sooner.

I have no further questions to Dr. Diels.

THE PRESIDENT: Any further cross examination of the witness?

Mr. Prosecutor, none is indicated. Do you have any redirect examination?

REDIRECT EXAMINATION

BY MR. SPRECHER:

Q Just one question.

When you submitted your resignation in 1933, to whom directly did you submit it?

A To Goering.

Q Thank you.

THE PRESIDENT: Any further cross examination?

The witness is excused.

Call the next witness.

MR. SPRECHER: The prosecution calls Dr. Helmut Noack.

THE PRESIDENT: The witness will be brought in by the Marshal.

Now, where is this affidavit found, Mr. Prosecutor?

MR. SPRECHER: Well, there are four affidavits in this case, Your Honors, and they are in Books 8.....

THE PRESIDENT: At what page, please?

MR. SPRECHER: At page 30 of the English, page 30 of the German. That's Exhibit 200. The next exhibit is Exhibit 840. That is in Document Book 46, at page 89 English, page 107 German. And the next is Exhibit 841, that is in the English document book 46 at page 94 and at page 111 of the German. And the last affidavit is Exhibit 1064 in Book 52, page 41 English, page 51 German.

HELMUT NOACK, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q The witness will remain standing to be sworn, raise his right hand, say "I" and state his name.

A I, Helmut Noack....

Q And repeat after me:

"Swear by God, the Almighty and the Omniscient, that I will speak the pure truth and will withhold and add nothing."

(The witness repeated the oath.)

The witness may be seated.

The prosecution may interrogate.

DIRECT EXAMINATION

BY MR. SPRECHER:

Q Will you repeat your full name for the reporters, please?

A Helmut Noack.

Q And what is your present address?

A Wiesbaden, Bierstaedter Hoeh, Richard Wagner Strasse #3.

Q And your present occupation?

A I am an accountant with a chartered accounting firm.

Q. And have you been employed by military government in that connection, or has the firm for which you worked been employed in that connection?

A. Yes, as an advisor of the military government for Hestia, I am working with the property control.

Q. Now, witness, the Tribunal and the defense have been advised of the four affidavits that are before us. Do you have your copies with you?

A. Yes.

Q. Now, would you take the first exhibit, 200, - that is, NI 9051.

THE PRESIDENT: I may say, Mr. Prosecutor, that the instructions given our secretaries must have been confused because we do not have on our desks the books in which these exhibits are found. To repeat it, we need Books 8, 46 and 52. Is that correct.

MR. SPRECHER: 52 and 46. Yes, Your Honor. Yes.

THE PRESIDENT: Just a moment when the messenger comes in.

Messenger, will you see that we are brought in, from our offices, Books 8, 46 and 52 for each member of the Tribunal. We have some of them, but part of them we do not have.

MR. SPRECHER: I think that most of the questions I can put in such a way that we can tide along until they do come. Do you have any objections?

THE PRESIDENT: No. Go right along.

BY MR. SPRECHER:

Q. Exhibit 200, NI 9051. Would you look at that affidavit, Dr. Noack? Do you have any corrections that you feel necessary to make for this affidavit to state the full truth?

A. No.

Q. The next one is Exhibit 840. That's NI 9512. Do you have any corrections which you think are necessary in connection with that affidavit?

A. No.

Q. I would like to ask you one question concerning that affidavit.

Your Honors, do you now have your books?

THE PRESIDENT: Not yet. We have part of them.

Which book are you talking about now, please?

MR. SPEECHER: This is the Book 46.

THE PRESIDENT: We have 46.

BY MR. SPEECHER:

Q. That's page 89 of the English, page 107 of the German, and if you'll turn over to the second page, page 90, I have a question I want..... Rather, page 92. On the stencil copy, page 3, just before the heading "Liaison with other offices", I have a question concerning the last paragraph before that. That's page 91.

You are there talking about Major Bloch and you state:

"I warned him not to put anything down on paper or to deal with the order in the manner desired by Bloch."

Will you tell us why you did that?

A. This person is a member of Farben who was active in traffic organizations in Holland. I can't remember his name. After the conversation with Dr. Bloch he wasn't quite sure, in his conscience, whether he might do these things with his business sense of ethics and he asked me for advice. I gave him this advice, since I didn't consider it advisable to have business affairs of Farben mixed up with these army matters and also because it was my personal opinion that the increased activity of the army might lead to complications which did not correspond to my own point of view.

Q. Witness, in connection with that I would like to ask you whether or not, in your opinion, there was common knowledge in Germany with respect to the use of force in the foreign policy of Hitler?

A. According to the state of affairs at that time, only two possibilities might be taken into account. For circles that were informed

in the army and political questions, such a policy had to lead to world wide conflict. On the other hand, it was clear that large parts of the population were convinced that Hitler's bluff policy might terminate without any warlike conflicts and give him the results that he desired. These opinions coincided with Henderson's book "Failure of a Mission", there he explains this situation at that time, in Germany.

MR. SPRECHER: Your Honor, I would like to ask that the last reference be not considered. I didn't intend to have brought in the question of a book written by a foreigner, and I claim surprise in the matter.

THE PRESIDENT: That may be considered stricken out of evidence. It is not responsive to the inquiry.

BY MR. SPRECHER:

Q. The next document is Exhibit 841.

Your Honors, that's in 46, page 94. Page 111 of the German.

Witness, do you have any corrections you would like to make to that affidavit?

A. No.

Q. And the last affidavit is Exhibit 1064 in Book 52, Your Honors, page 41 English, page 51 German.

Do you have any corrections to that affidavit?

A. No.

Q. No further questions.

THE PRESIDENT: Defense may cross examine.

CROSS EXAMINATION

BY MR. LINGENBERG (Defense counsel for defendant Ilgner):

Q. Dr. Noack, you say that on the 1st of May 1937 you entered the services of Farben in the office Berlin, NW 7?

A. Yes.

Q. Do you know who recommended you to Dr. Ilgner?

A. I assume, Dr. Gattineau or Dr. Nohtat.

Q. Dr. Noack, during your two years' activity in the Berlin office,

NW 7, you worked in two separate departments. Is that right?

A. Yes.

Q. Would you please tell me who was your superior in these departments?

A. In the Wipo, Dr. Gattineau was my immediate superior; his deputy was Dr. Terhaar. I do not know exactly whether Dr. Gattineau was immediately responsible to Dr. Ilgner or whether perhaps, during the first time at least, he was responsible to Dr. Krueger.

Q. One might say that your next superior was Herr Terhaar who had power of attorney? Is that right?

A. Yes, I believe that is so. He had the power of attorney.

Q. Mr. Gattineau was the prokurist who was immediately over him.

A. Yes.

Q. And then, finally, Director Krueger?

A. Yes.

Q. And Dr. Ilgner was the member of the Vorstand above all of them?

A. Yes.

Q. Witness, you have stated that you were active in the Reich Ministry of Economics affairs before?

A. Yes.

Q. Can you tell me what was your function there?

A. I worked on questions of foreign trade of a basic character and also questions of an army political aspect which had been put by the Reich War Ministry to the civilian agencies in view of economic mobilization.

Q. Thank you very much.

In your first affidavit - that is the affidavit in Book #8, Exhibit #200, you spoke about the Vermittlungsstelle W. I assume that your information about this Vermittlungsstelle W is not based on your own observations, since Vermittlungsstelle W, apart from the social care, did not come under the jurisdiction of NW 7. That is, it didn't belong to

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the organization of Berlin NW 7. Is that correct?

A. Yes.

Q Can one say, witness, that when you entered the services of Farben you had a better knowledge of military political affairs than the gentlemen in NW-7?

A Without a doubt, for these gentlemen of the Commercial Department had not concerned themselves with these questions, as far as I see.

Q Witness, is it correct that the general military political work that you describe after the general mobilization in Germany was ordered by the authorities in Germany?

A Yes.

Q Is it furthermore correct that the question of deferment, the question of deferring people in industry in the case of war was also treated by the competent agencies in 1937?

A Yes, exclusively, for in an economy that is directed by the state there is no other possibility.

Q Did this apply especially to Farben--or was it for the entire German industry?

A For the entire German industry.

Q Witness, in your affidavit you further state that when you entered, nothing had been done in this matter in Farben, and that you considered that somewhat strange, that you made certain suggestions which--and I quote you now: "did not result in any success." And in this connection I should like to ask you: Is it correct that it was your opinion at that time that Farben was somewhat negligent in fulfilling their duties in this manner?

A My statements can only affect the Commercial Departments, since I do not know the technical part--and this was a question of Vermittlungsstelle W. I do not know if the word "negligent" can be applied here. One might say that Farben, despite its important position in Germany, had not yet concerned itself with these things from the commercial point of view.

Q Thank you very much. I am only concerned with the Commercial

Department.

DR. LINGENBERG (Counsel for Defendant Ilgner): Mr. President, it was pointed out to me that a mistake in the translation has occurred. That is, the interpreter, when he used the word "mobilization--general mobilization", for "Wiedereinfuehrung" der Wehrpflicht he should perhaps have used "reintroduction of military service."

THE PRESIDENT: Very well; we will take note of your observation.

BY DR. LINGENBERG:

Q Witness, in your affidavits you make several statements about the economic policy of Schacht, and about the Four Year Plan and among others, you make the following statement: "The more important an enterprise was, the easier was it for it to gain an insight, and it had to find that the State Leadership did not only expect defensive conflicts." In your Direct examination you have already made some statements which seem quite applicable to me. However, in order to clarify your attitude, I should like to put one more question to you.

Is it correct if I say that it is only an assumption on your part--that is, a personal opinion--and that it is not an exact knowledge of fact?

A Yes, of course; it is my opinion of matters.

Q You were an employee of Farben at the time. Did you, as an employee of Farben, hold this opinion at that time, or did you make this conclusion only now, retrospectively?

A I was of the opinion at that time that such preparations must of necessity lead to conflicts even if one did not want such conflicts, for such preparations of the political leadership are bound to their own laws, and I believe that large circles of industry had misgivings. I can see them in Farben, for instance, founded on the fact that Farben--and that again is my personal view--in a number of projects--

Q Excuse me, witness, if I interrupt you. You did not understand my question. I asked you whether at that time you had reached

that opinion?

A Yes.

Q Did you draw any consequence from this for yourself?

A The consequence, as far as my work in Farben was concerned, can be seen in the fact that I rejected the proposal made by Dr. Gattineau to direct the military-political things under him, independently from Herr Terhaar.

Q But you had no misgivings to remain in the services of Farben?

A No.

Q Witness, you speak in your affidavit about the ever-increasing demands of the State for enlargements of armament production. In this connection, I would like to know what detailed information you had as a member of the Berlin NW-7 office?

A About armaments and production capacity I had no knowledge, as a result of my activity with the WIPO.

Q Where does your knowledge come from?

A This knowledge comes from my former activity with the Ministry of Economics and my connections that I had therewith for until 1938 I remained in the Liaison Office of WIPO.

Q If I understood you correctly, they did not arise from any connection that you had with Farben?

A Of course, one heard about demands that were made on Farben; for instance, the synthetic fuel production or the sulphur factory Döberitz.

Q Did you have anything to do with it in Farben as a result of your work?

A No; I heard about it as a result of my activity with Farben.

Q I believe that I can conclude my series of questions by saying that it is information which you only gained as a result of hearsay within Farben?

A Yes.

Q Now to another affidavit there are two affidavits really, in Book 46. These are Exhibits 840, Your Honors, and 841, since they are related in their contents.

Dr. Noack, did the trade policy department of Farben concern itself only with such matters that had directly to do with Farben's interests?

A The question can neither be answered with yes nor with no. The main task, of course, was in the immediate interests of Farben, but there were also orders given to us by the State which perhaps had only an indirect connection with the interest of Farben.

Q What kind of tasks are you speaking about in the framework of the Trade policy Department?

A The economic reporting task.

Q Witness, you say further on that in regard to the Trade policy desires of Farben--that is, above all, questions of tariff and quotas, a special arrangement had been reached with the Reich Ministry of Economics. In view of the size of Farben--that is, the significance of Farben's exports--wasn't this arrangement with the Ministry of Economics considered expedient to simplify their business?

A Yes.

Q You then speak of your activity in the Direction Department to which you were transferred in the autumn of 1936?

A Yes.

Q In that connection you say that one of the functions was the support of interesting personalities. Did you mean by that entertainment of important persons? Or what kind of support did you mean?

A I meant entertainment.

Q You then speak of keeping of records on interesting persons. Did you mean by that so-called personal file index in which all personalities were contained, who Dr. Ilgner met on his trips or in Germany?

A Yes.

Q Was this card index kept especially secret? Or was it

accessible to all departments of the concern who might have an official interest in them?

A To all departments in the concern, and also as far as I know, to the agencies for any questions they wanted.

Q Dr. Noack, further on you say that when you entered the services of Farben on the first of May 1937 the institution of Farben Liaison men was already in existence. Would you maintain this assertion in your affidavit if I put to you that by reason of Commercial Committee minutes of the 20th of August 1937, which has been offered as an exhibit in this court, it is quite definitely established that only as a result of this meeting of August 1937 the institution of Farben liaison men was created?

A If you tell me that, I have to believe it for I have been in the war service since 1939. I remember only what I said: that this institution already existed when I entered the services. It is possible that I may be mistaken.

Q It is not correct as I told you.

Q Witness, you stated further on that the Farben liaison men reported on a large scale currently on affairs. Was it a part of your duty in the office of NW 7 Berlin to read such reports?

A If they concerned the trade policy and military political affairs, it was my duty, and I partly turned them over to the indicated agencies for information.

Q Did you have any functions in the office of the Commercial Committee or did you personally have any direct connection with the activity of the Farben liaison men?

A No.

Q You state, furthermore, that the drafting of such reports was to be carried out by especially qualified people, and that in most cases capable persons on the spot were commissioned to do these things. Don't you know that Farben Liaison men were almost as a rule long time directors of Farben sales combines abroad?

A Yes, I expressed that also when I said in one of the affidavits that in the various enterprises there were the leading personalities of the sales offices on the spot and that it was intended to supplement them later on, by other people -- for instance Dr. von Humboldt.

Q That is enough for me. I just wanted to have you confirm that.

Dr. Noack, you said that these reports among other items also contained the item Military Policy? Do you know that for sure?

A Yes, certainly. I can remember that reports came in which reported that Bofors had been giving armament orders, or that South America wanted a powder factory, which, of course, had something to do with the interests of Farben, -- things that I remember only now, which of course have an economical aspect, but also a military aspect.

Q Did they classify that under one item in these reports, called "Military Policy"? Do you know that for sure?

A What affidavit is that contained in?

Q In your affidavit, NI 5912. On page 4, at the top of page 4?

A Yes.

Q Did you find it?

A Yes. When I say this I am referring to a recurrent comprehensive report on the Philippines as far as I know. This report was very much in detail and the author took the trouble to classify his information which he got from newspapers, etc. according to the various items as I have stated in my affidavit.

Q You do maintain that there was such an item, "Military Policies"?

A This particular author, this reporter, classified his information according to these items, if he had such information I especially remember in this connection these reports from the Philippines.

Q I did understand you correctly that this is only an unique example?

A Yes.

Q Dr. Noack, you quote in this same affidavit, that it might be assumed that Herr Bloch of OKW counter-intelligence service was given VOWI material; upon what do you base this assumption of yours?

A Dr. Block was a systematical and methodical person, and he used every and any possibility wherever he found it in any enterprise of industry or in traffic enterprises, to collect the material that he considered important. It was known to him by reason of his long activity with the ABWEHR (counter intelligence service) that the VOWI possessed much material. I am clear, and Dr. Block whom I knew since 1926 told me, that he used this sort of information for his own purposes. It is clear that Bloch instigated this operation.

Q This information originates, if I understand you correctly, with Dr. Block and it is not an observation of your own which you made during your activity with Farben?

A I cannot say that. I had nothing to do with the distribution of VOWI.

Q Dr. Noack, in the affidavit I referred to, you say furthermore that perhaps the list of Farben Liaison men who were exceptionally qualified for special tasks, was reported to OKW ABWEHR? Your statements are a little cryptic, you may admit. How can you arrive at such a formulation?

Is it based on any concrete, exact fact?

A Certainly Dr. Block was well-informed about all of the institutions which the industry had abroad, by reason of what I just told you. It was quite easy for him to know the institution of Farben liaison men and that he utilized these people for his own purpose.

Q Is that an exact knowledge of fact that you have, or only an assumption?

A Dr. Block spoke to me about these liaison men of Farben -- to me.

Q It is not sufficient if he merely spoke to you about it, that you can make a definite statement of fact, that the list of these Farben liaison men was furnished to OKW ABWEHR by Farben that is going considerably further.

A If Dr. Block approaches an industrial enterprise and wanted to be informed about a certain fact, it is quite evident that the agency concerned gave him the information.

Q Do you know what actually happened in this case?

A (No answer)

Q The list of these Farben Liaison men was given to him?

A That list was not secret.

Q You are elusive, witness. Will you please answer my question; do you know it?

MR. SPRECHER: Just a minute; may I ask that counsel wait. It is impossible for the interpreter to go forward. I am following both languages.

Q Can you tell me exactly who introduced this I.G. representative to Major Bloch?

A As far as I remember this matter originated with Dr. Block who heard that the man was in Germany. He approached Farben to get in contact with this person.

Q But you don't know what persons were involved on the part of Farben?

A That is the representative in Holland that I told you about.

Q I mean in Farben in Berlin?

A He approached Dr. Cattineau.

Q Very well. In your affidavit you further state that Major Block had had social intercourse with Dr. Ilgner. Did you hear of the fact when you worked at MW7 that Dr. Ilgner gave very large parties every year at which about 200 persons were invited?

A Yes, I heard it, but I do not know how many persons were invited.

Q. Would you believe that the fact that somebody was invited to such a large party once or twice is a justification for saying that he had social connections with the hosts?

A. I don't understand this question. If I am invited somewhere, then I am socially acquainted with these people.

Q. Well, one can be of different opinions here. However, I am satisfied with what you have told me.

Dr. Noack, you speak further in regard to the question of a conflict of conscience which this person suffered, this person who had to find out about certain movements of ships in the Amsterdam port for major Bloch. In that connection you state that you did not know whether the advice that you gave could have been approved by your superiors.

THE PRESIDENT: Counsel, the Tribunal finds itself in a very unhappy and uncomfortable position. We have here four affidavits that may have some probative value with respect to that. I don't feel that I should express an opinion, but here are four affidavits that are full of opinions, surmises, and speculations over a wide range. The Tribunal recognizes the fact that that gives counsel for the defense an almost unlimited scope of cross-examination. Such an affidavit, or such a group of affidavits, ought never have been offered in that situation to the Tribunal in the first instance. Under the circumstances, the Tribunal would like to direct a request to you, and that is to exercise a very sound discretion as to how far you carry this cross-examination. After all, we feel that the subject has been pretty thoroughly covered in view of the fact that a very large part of these affidavits has practically no probative value in the first place. There may be some direct allegation of fact or statement of fact with which you have, of course, a right to cross examine this witness. Please do not feel that because the affidavit contains a lot of surplusage, you must cover it by similar cross-examination. The Tribunal will be able to weed out material parts of this affidavit and ignore the surplusage. And under the

circumstances, we ask you to give some thought to the matter of not burdening the Tribunal in the exercise of what may be regarded as your rights.

Thank you.

DR. LINGENBERG: Mr. President, I am very happy about the fact that the Tribunal recognizes the difficulty under which the defense labors in the cross-examination, in the case of affidavits which contain so many assumptions, opinions, and such indefinite factors. It is difficult for the defense to assume responsibility for deciding what is to be eliminated and what should not be eliminated. However, I shall be glad to comply with the suggestion of the Tribunal and confine myself to the concrete facts which actually do appear in some of the affidavits, on the assumption and in the hope that the probative value shall be considered very small as a result.

MR. SPEECHER: Mr. President, in connection with this affidavit I would say that one of our principal objects was to show that from the year 1937 on, IG was constantly transmitting information to the Wehrmacht; and I think that with that in mind, it may assist counsel.

THE PRESIDENT: Counsel now has the benefit of what the prosecution relies upon so far as this affidavit is concerned. I am sorry we didn't have it earlier, we could have saved a lot of time. But now, as presented to you, you can safely limit your cross-examination to the matters which the prosecutor has just stated to the Tribunal as being the purposes for which the affidavit is offered. We likewise shall limit it to that field in our consideration of the affidavit.

BY DR. LINGENBERG:

Q. Witness, I want to remain with the subject you have treated in your affidavit in Book 46, Exhibit 840, and which you have repeated in exhibit 41, that you were aware that the advice which you gave at the time would not have been approved by your superiors. Did you ever discuss such questions with Dr. Ilgner?

A. No..

Q. Did you ask him for his opinion?

A. No. May I say something in that connection?

Q. The Tribunal desires expedition of this cross-examination, and therefore I should be grateful if you simply answer my questions.

A. But my answer was not completed. The restriction — that is, the opinion that I had — can be seen from the fact that Dr. Ilgner and Dr. Gattineau were officers of the German Army, who, in matters of counter intelligence had certain relations with the Army.

THE PRESIDENT: If counsel for the defense wishes the Tribunal to consider the latter statement as having been stricken out as unresponsive, we shall make the record so show.

DR. LINGENBERG: Yes, please, I should like to ask you to do that.

THE PRESIDENT: It is so ordered, and Mr. Witness, wait for another question.

BY DR. LINGENBERG:

Q. I should like to conclude this point with one question by asking you again to confirm that Dr. Ilgner never uttered his opinion to you in this connection.

A. No.

Q. Witness, you further speak about Geheimrat von Brandenstein. How often did you meet this Herr von Brandenstein? Did you know him more closely?

A. No. It can be seen from the affidavit that I only knew him slightly and that I only heard about him as a result of my activity with Farben.

Q. You mentioned the Eastern European area in connection with Herr von Brandenstein. Do you mean the Southeastern European area, since Herr von Brandenstein didn't interest himself in the Eastern European area at all?

A. That must be a mistake. Here it says: "He was used in the Southeastern European business."

Q. On page 109 you say: "I also remember that Brandenstein was mostly used for establishing connections with international personalities, especially in the Eastern European territory."

A. That is a mistake. It should be "Southeast European territory."

Q. Then you mention Herr von Pfluegge, whom you know only superficially, as you say. Can you tell me how often you spoke to Herr von Pfluegge?

A. I believe once.

Q. You say that Herr von Pfluegge worked on a few basis and had no contract with Farben. Do you know of the contract between Herr von Pfluegge and Farben? Did you hear Mr. von Pfluegge mention a contract that he had with Farben?

A. No.

Q. Then you speak about information which Herr von Pfluegge passed on to Farben Berlin NW-7. Did you ever read such information?

A. I remember letters coming in the WIFO, which came from Pfluegge, about economic political affairs from the Turkish area, as far as I can remember it today.

Q. You have no detailed recollection of individual facts?

A. No.

Q. In this connection you also mention Herr von Massow. You say that his father was a high ranking officer of the SS. Do you know that Herr von Massow was the son-in-law of a Farben Director; that is, the late Agfa Director Rudolf Westphahl?

A. I answered to that effect in my conversations.

Q. But you admit that you did not incorporate it in your affidavit?

A. No.

Q. Do you believe that employment with Farben had anything to do with the fact that one was the son-in-law of a Farben director, rather than the fact that his father was a high SS officer?

A. I remember that Herr von Massow mentioned that to me, and that is

why I put that in the affidavit.

Q. The matter is not very important. I just wanted to find out how well you were informed about this subject.

You further state that members of the Foreign Office of the organization of German Abroad and similar organizations, were often guests of Farben. Apart from the one case that you mentioned, can you give me a concrete case where members of the organization of Germans Abroad were guests in the Farben Casino?

A. I remember that after the meeting of the foreign trade organization in Stuttgart, a number of representatives from abroad were invited there by Farben.

Q. Yes, that is the case that you mention in your affidavit. However, I wanted to know whether you knew anything about further cases of that nature which might justify your statement that members of the foreign organization were frequently guests of Farben.

A. This invitation was not just a one-time invitation, but current invitations occurred and were sent out by Farben. In my activity with the direction department which was responsible for making the seating arrangements, I learned that frequently people from the foreign organizations were invited not by themselves but in connection with other personalities.

Q. Can you give me a definite detail such as the name, the cause, and perhaps the date?

A. Apart from this one foreign trade week in Stuttgart, I cannot do that any more today, after eight years.

Q. You say that such suggestions for invitations were made by the Foreign Office or similar agencies because these meetings with these persons were considered more to the purpose on the neutral territory of Farben. Can you tell me of definite instances where such suggestions were made?

A. I believe I have listed them: The son of the then President Vargas and the son of Foreign Minister Hench. I stated that in one of

the affidavits. I know that at the time the Foreign Office suggested that these persons be invited, because Farben invitations were not restricted, but very broad, and that suggestion was followed up.

THE PRESIDENT: Counsel, it is now 4:30. May I inquire of you as to whether you deem it necessary to pursue this cross-examination very much further, in view of the time that has already been consumed and the statement of counsel for the prosecution as to the limited field upon which they claim there is any pertinency in this affidavit, and the observations that the Tribunal has already made with reference to the fact that this affidavit largely consists of opinions and speculations on the part of the witness?

DR. LINGENBERG: Mr. President, please give me permission to ask my questions about the last affidavit which has not yet been touched, concerning the Austrian subject, just a few questions, tomorrow. It confirms a few definite points. I shall be finished very shortly.

THE PRESIDENT: Very well. The Tribunal would be reluctant to impose very strict limitations upon you in view of the character of the affidavit. However, we feel that so far as serving a useful purpose, the cross-examination could well be limited quite severely.

What is the attitude of other counsel for the defense with respect to the cross examination of this witness? Do any other --

(Show of hands by defense counsel.)

Two others. What we have said with reference to our view of this cross examination applies to you gentlemen too, but we are going to afford you a reasonable opportunity to pursue your cross examination in the morning. I am not undertaking to preclude cross examination or to limit it, but we hope, gentlemen, that you will not take advantage of the fact that these affidavits do contain a large amount of surplusage, which will have no consideration in the mind of the Tribunal.

We will now rise until 9:30 in the morning.

(At 1635 hours, 27 October 1947, a recess was taken until 0930 hours 28 October 1947.)

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NATIONAL ARCHIVES MICROFILM PUBLICATIONS

OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NÜRNBERG

**CASE No. 6 TRIBUNAL VI
U.S. vs CARL KRAUCH et al
VOLUME 9**

**TRANSCRIPTS
(English)**

28-31 October 1947 pp. 2865-3233

Official Transcript of the American Military Tribunal No. VI in the matter of the United States of America against KARL KRAUCH, et al, defendants, sitting at Nurnberg, Germany on 28 October 1947, Justice Shake presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal VI.

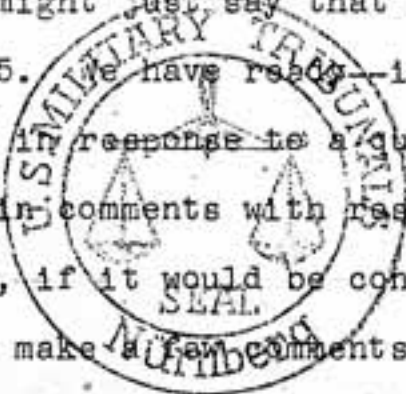
Military Tribunal VI is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: You may report on the attendance of the defendants, Mr. Marshal.

THE MARSHAL: May it please Your Honors, all the defendants are present.

THE PRESIDENT: Gentlemen, the Tribunal has under consideration a matter involving the competency of the evidence as it relates to what may be called the "Russian phase" of this case. Before coming to a conclusion as to what its ruling may be, the Tribunal would like to have a statement, if it may, from the Prosecution as to whether or not it will rely upon and stand upon Count 5 of the Indictment which charges conspiracy. It is not intended to require the Prosecution to make that statement at this time; you may take it under advisement, but we will appreciate reasonable promptness on your part because we shall not feel ready to rule until after we have heard from you in that regard.

MR. DUBOIS: I might just say that we certainly intend to rely on Count 5. —in fact we had ready several days ago in response to a question Dr. Boettcher had raised—certain comments with respect to Count 5, and I think that maybe, if it would be convenient right after recess, we might make a few comments concerning that that might clarify our position in certain respects concerning Count 5.

THE PRESIDENT: Very well. We would be glad to hear you at your convenience. You may take it up after the recess, if you are ready to state your position at that time.

MR. DUBOIS: I think we are.

THE PRESIDENT: Are there any other announcements before we proceed with the cross-examination of this witness? If not, counsel for the Defense may continue the cross-examination of the witness in the box.

CROSS-EXAMINATION (Continued)

HELMUT NOACK - Resumed

BY DR. LINGENBERG (Counsel for Defendant Ilgner):

Q. Mr. Witness, at the end of the session we dealt with your affidavits in Book 46. I assume you still have those affidavits?

A. Yes.

Q. They were Exhibits Nos. 840 and 841. There is one sentence in each of these affidavits that I would like to ask you something about. In the first of the two affidavits, on the last page, you state the fact that Herr von Bismarch, in 1938 and 1939, left Farben and entered the German-American Chamber of Commerce, in New York.

Mr. Witness, did you have anything to do with details of this affair? That is to say, do you know the internal relationship of this matter?

THE PRESIDENT: Mr. Presecutor, before you make your comment, would you remind us of in what books and pages those two affidavits may be found?

MR. SPRECHER: Yes, Mr. President; The two affidavits are found in Book 46, English pages 89 and 94.

THE PRESIDENT: Thank you.

MR. SPRECHER: Mr. President, with respect to the affidavit NI-9512, which is Prosecution Exhibit 840, that

is at page 89 of the English and 107 of the German, may I make a statement which may assist us very dearly here?

THE PRESIDENT: Yes; certainly.

MR. SPRECHER: I hope you will pardon first a little preliminary statement. I think on one occasion or another it has been brought to your attention that sometimes, even in our views, some surplusage does creep into these affidavits because of the problem we have as attorneys working through analysis and interrogators who, in the first instance, usually get the affidavits for us. Because of the mechanical difficulties of translation, we are not really in an equal position as lawyers in presenting to you the boiled-down, relevant parts in the same way, I think, that we would be if we spoke the language ourselves.

Now, with respect to this affidavit, I think Prosecution is quite anxious to point out to Your Honors that there is a certain amount of what I would call either cumulative material which is much better covered in other places, with perhaps fewer conclusions, or else it is in the nature of surplusage. Sometimes, I must remind the Tribunal, affiants themselves desire, in order to give a full picture which they feel because of their personal experience, insist upon some of these things going in, and we have not felt that we should have taken it upon ourselves in that event to eliminate some of this material.

I only wanted to make that explanation because we have tried to be diligent in performing our functions about these things, but we have certain limitations. Now, with respect to the affidavit before you, turning over to the last page and the last paragraph on the last page but one, starting with "Liaison with other offices"; for the reasons stated Prosecution will withdraw all of that affidavit,

beginning with "Liaison with other offices" down to the end of the affidavit.

THE PRESIDENT: Of course that does present somewhat of an awkward and perplexing situation. The Tribunal can tell from these affidavits that they were not prepared by the counsel that is trying the case, and we certainly agree with the observation of the Prosecution that some of these affidavits contained very much matter that, as long as the parts are before the Tribunal, we would not feel at liberty in restricting cross-examination with respect to it. We might not think it was even material--and yet that would hardly be a justification for denying the privilege of cross-examination if the Prosecution brought it in. As we view the situation, since the whole affidavit is before us and since in every case with corrections that have been made the witnesses have said "Finally, this is the affidavit on which I stand", conceding that the affiant has some rights as to what he, himself, wants to put in his affidavit, even even though it may not be material, we see no reason why the Prosecution may not say to the Tribunal "There are certain parts of this affidavit we do not rely upon. We do not think they are important; and we are willing to stipulate that the Tribunal need not consider it when it goes to attach weight to the affidavit." Now, as I understand counsel now, the Prosecution is willing that the Tribunal may ignore all of that part of Document NI-9512, after the sub-heading "Liaison with other offices", down to the last paragraph. Is that correct, Mr. Prosecutor?

MR. SPRECHER: That is correct, Your Honor.

THE PRESIDENT: We will run a line around these parts in our books; the part withdrawn will not be considered by the Tribunal, and consequently no good purpose would be

served by cross-examining the witness with respect to something that the Tribunal will not consider.

May we suggest, Mr. Prosecutor, that it might help in the future if, when you offer the affidavit, you will indicate if there are any parts of it that you think are not worthy of consideration by the Tribunal. We will then be advised of that fact, and counsel for the Defense will understand that it would be no occasion to cross-examine with respect to that. My thought is this: You could do it where the affidavits are in evidence; you could do it when you put the witness on the stand, and in your examination-in-chief, you can call our attention, the attention of the counsel for the Defense that there are parts of the affidavit which you do not desire to have the Tribunal consider. That will simplify the problem for us and simplify the problem of cross-examination for the Defense.

MR. SPRECHER: Mr. President, in connection with the affidavits that are already in evidence, and with respect to which cross-examination still has to be exercised, I think we will be able to do that in connection with each witness as he is called to the stand.

THE PRESIDENT: My thought is that if you could do it in the future when you offer the affidavit, then it would apprise counsel for the Defense well in advance. But of course as to these affidavits that are not in evidence, you could only do it when you put the witness on the stand.

MR. SPRECHER: Mr. President, with respect to those affidavits that have not yet been offered, and because of the subject matter that we are now coming to, I do not think we do face actually, that is, practically speaking, the same problem we have with respect to the much more complicated Count 1, and to some extent Count 2.

THE PRESIDENT: Very well.

Now, Counsel for the Defense, your question was proper when it was asked and we would have permitted it to be answered, except for the fact that by the stipulation of Prosecution that parts of the document about which you are now inquiring are not to be considered by the Tribunal in any event, and that basis, and that alone, the objection to your question is now sustained.

DR. LINGENBERG: Mr. President, I have nothing to add but I should only like to say something on the subject of discussion just now. As a Defense counsel I should like to ask the Prosecution to make such stipulations of affidavits in time and turn them over to the Defense, since it is in the interest of expedition and saving of work for the Court and for the Defense to have this material taken out not after the cross-examination is conducted.

MR. SPRECHER: Mr. President, the Prosecution has not meant to indicate by any means that we consider anything but a small minority of the parts of this affidavits as surplusage; and it would be very easy for us to indicate those things to the Defense, and the Defense, I think, will clearly understand at the time the announcement is so made.

THE PRESIDENT: Very well. Thank you. I think we understand ourselves. You may continue with your cross-examination.

BY DR. LINGENBERG:

Q. Witness, in regard to the second affidavit, in Book 46, I should like to ask you something else; That is NI-10558, in the German Document Book 46, page 111 and following, and in the English, pages 94 and following.

In this affidavit you speak of the fact that Major Block asked you when you wanted to go to England to bring back copies of English military-economic questionnaires for

him.

At that time did you have anything officially to do with Mr. Bloch, in 1937?

A. I assume so.

Q. You knew Dr. Bloch, if I remember correct, already since the middle of the twenties?

A. Yes.

Q. Thus Farben was not the agency that mediated your acquaintance?

A. No, I did not get this mission because of my work with Farben but because I knew him for such a long time.

Q That is what I wanted to bring out, witness. I now turn to your last affidavit, Dr. Neack, that is Document NI 10421, Exhibit 10064, German document book 52, on page 51, English also, document book 52, page 51. Witness, you make detailed statements about Dr. Neubacher, so that I assume that you know him very well. Do you know when Dr. Neubacher entered services with Farben?

A. I cannot remember.

Q It was about the same time when you entered, that was in the spring of 1937. Do you know, perhaps, when Dr. Ilgner met Dr. Neubacher for the first time in his life?

A. No.

Q That was already in August, 1932.

MR. SPRECHER: Mr. President, I think one of the great difficulties in our cross-examination, and one of the very great difficulties in the prosecution in trying to perform its functions in connection with cross-examination, is because we constantly have little speeches from the defense that precedes questions and which antecede questions, and they have no proper place in cross-examination, and we have tried to bring that out, time and time again.

The only reason I do not object more often is because I do not know if it is having any possible contribution to this proceeding, but it is certainly improper.

THE PRESIDENT: The point made by the prosecution is well taken. Counsel should not interject into the record his own statement of facts. Where he does, he only encumbers the record and adds nothing that will be considered by the Tribunal.

Please counsel, try to refrain from volunteering what you assume the facts to be, and limit your cross-examination to asking proper questions of the witness, and letting him answer.

You may continue.

DR. LINGENBERG: In this connection I should like to ask you whether you knew how many times Dr. Ilgner saw Neubacher before he en-

tered service with Farben in '37, saw him?

A. I don't know that.

Q. Do you know who recommended Dr. Neubacher to Farben?

A. So far as I know, Dr. Clodius from the Foreign Office.

Q. Witness, you say that this Dr. Clodius had the ambition to bring about customs union with Austria. Do you know that this ambition already manifested itself in 1919 with the Social Democratic government in Austria?

MR. SPEECHER: Objection. We did not go into the history concerning this particular problem in the affidavit.

THE PRESIDENT: The objection is sustained. That is of no material consequence to the Tribunal in the consideration of this matter.

DR. LINGENBERG: Mr. President, to explain this question I merely want to say that the witness, in his affidavit, brings a certain tendency into his statement so that it is important to see whether he actually knows conditions well enough to make an evaluation and to say that a certain person had a certain ambition to bring something about.

THE PRESIDENT: Well if we should go into the field of what prompted the ambition, with all of the facts he had in mind, and whether or not they were true otherwise, we would soon find ourselves trying a collateral issue. I dare say that in any of these affidavits you will find passing and insignificant remarks which might be the basis of many questions, but after all, you must look at the affidavit as to what it establishes in a substantive and substantial way, that might have some weight or consideration by the Tribunal. This matter is of only incidental interest and does not warrant any extended cross-examination.

The ruling will stand, Counsel, you may ask another question.

BY DR. LINGENBERG:

Q. Witness, in your affidavit you further spoke about the tasks of Dr. Neubacher. What do you know about that?

A. I have expressed that in my affidavit by saying that it was

his duty to work out a plan for the economic penetration of the Balkan area. This statement of mine is based on the personal conversations that I had with Dr. Neubacher repeatedly.

Q. Tell me, witness, that sentence that you have just read, that it was his task and so, "to work out his plan of economic penetration of the Balkans". Is that your own formulation?

A. Yes.

Q. Thank you. Tell me, witness, did you concern yourself with the South-East in the NW office in Berlin?

A. No.

Q. Were you one of the personnel, confidential friends of Dr. Ilgner?

A. No. I reported him on the situation.

Q. In your affidavit, you say this, "the line of the German foreign policy was in harmony with Dr. Ilgner's own interest in the Balkans."

What did you know about Dr. Ilgner's personal interest in the Balkans?

A. In the sessions that took place in Berlin NW, and in which I was able to participate, Dr. Ilgner repeatedly expressed his economic plans of Farben's intervention into the economic relations, and he also worked on this question, and had VWI work on this question.

It is quite understandable that he should work on these things since his own interests ran parallel to those interests in that area.

Q. I shall revert back to that later, Dr. Noack. At this moment, I merely would like to ask you whether you know who made Dr. Ilgner the president of the Southeast Committee of Reich-Group Industry?

A. No, I don't.

Q. Do you know when he was appointed?

A. I don't know that either.

Q. You speak of Dr. Ilgner's membership and of Farben's member-

ship in the Central-German Wirtschaftstag; (Central German Economic Conference). Do you know when Dr. Ilgner entered the Council of Central European Conference?

A. I cannot remember it exactly. It has been 9 or 8 years ago, but I believe that it was in 1938.

Q. Witness, if I put to you now that it was in 1931, would you believe then that that might lead one to conclude that since 1931 a continuous policy of German foreign economic trade was maintained, or to put it a little more sharply, do you believe that the German foreign policy in 1931 was the same as that held later after 1933?

A. I do not contest that fact.

Q. Witness, did I understand you correctly that you want to answer that question in the negative?

A. I said that I do not contest your statement. The economic questions and foreign political questions were already in existence in '31 just as they were after 1933.

Q. Now then, do you want to say that the line of foreign policy was the same before '31 as it was after '33?

A. In regard to the southeastern European territory, I believe so, yes.

Q. Witness, in your affidavit you further say something about the Luftwaffe officer, Getye. You say that he was given leave from the Wehrmacht for the purpose of accepting the post as business director of the Central European Economic Conference. How do you know that?

A. From the then Colonel of the Luftwaffe, Getye himself.

Q. Witness, if I put to you that Getye was dismissed from the Wehrmacht, that he was not given leave, but dismissed because he was unacceptable to it, and if I put to you that he was never active in the Central European Economic Conference, do you still then believe that your statement in your affidavit, in its present form, is correct?

A. It may be. I say that I attended a session of the Central

European Economic Conference in Berlin on behalf of Farben, at which session I met Mr. Goto in Civilian clothes. He said at that time that he had been given leave and had been asked to take over the position of business manager, but at that time he had not yet decided whether he would accept the mission or not.

Q. That is enough, witness. You are then speaking of the cultivation of soya beans in Rumania. You say that they were a part of the alleged Balkan plan of Dr. Ilgner's. Do you know when this project was initiated?

A. No.

Q. If I say to you that this was done in connection with the treating of the southeastern European currency, as a result of the bank crash in Austria and Germany in 1931, do you still consider that possible?

A. Absolutely, possible.

MR. SPEECHER: Mr. President, it is obvious that the prosecution did not attach any particular weight to whether or not this project on soya beans began in 1890 or in 1930. What is important is that in connection with that project, Ilgner was in connection with the Landesgruppenleiter of the NSDAP in Yugoslavia. Now under the decision of the IMT that gentleman falls within the Fuehrer-corps of the party, and certainly was a person in view of the outrageous activities of the Auslandserganisation of this party, the Nazi party, and we think it important to bring out, as we have brought out in many connections, that Dr. Ilgner had relations of an intimate type with a number of such people, and that is the purpose, if that will help us any here, not whether or not soya beans were being raised.

THE PRESIDENT: If counsel for the prosecution's observation there was an objection to the question, or a motion to strike out the answer, it is overruled. The prosecution cannot limit the consideration of evidence which it brings before the Tribunal to the purposes which it had in mind, and thereby deny the privilege of cross-examination to the defense.

Ask another question.

BY DR. LINGENBERG:

Q. Witness, did you mean to say when you made statements about this question in your affidavit, that the southeastern countries them-

selves had no direct interest in the cultivation of soya beans?

A. No.

Q. What was this interest that they had?

MR. SPEECHER: Objection, Mr. President.

DR. LINGENBERG: May I answer objections?

THE PRESIDENT: Yes, sure.

DR. LINGENBERG: In this affidavit the witness states that a certain plan was in existence, as he says, for the economic seizure and penetration of the Balkan area.

Arguments are brought from which this project is supposed to be shown, and as one of the facts, he mentions, and he says, I quote "Projects as for instance the cultivation of soya beans were part of this plan". Therefore....

THE PRESIDENT: Counsel, it won't be necessary to make any further objection. The objection of the prosecution is overruled.

DR. LINGENBERG:

Q. Can you please answer my question? What was that interest of those countries?

A. Certainly. The interest was in the increase of foreign trade with Germany, and vice versa. Germany wanted to raise her foreign trade.

Q. Do you want to have your affidavit understood to mean that the soya bean question really was part of an alleged plan of Dr. Ilgner to penetrate the Balkan economically?

A. To penetrate it, that is to say, to further this plan in the interest of Germany, and to intensive foreign trade with those countries, a policy that was certainly that of the Reich, and resulted in the large negotiations and agreements with Rumania.

Q. If I understand you correctly then, the interests were neutral?

A. Yes.

Q. Witness, you say that in '38, Dr. Ilgner, together with Dr. Leosacker, visited the Landesgruppenleiter of the NSDAP in Yugoslavia.

Do you mean this person, the General Consul in Belgrade, Herr Neuhausen?

A. Yes.

Q. If I say to you that Dr. Ilgner at the most saw that gentleman only 6 times, does that justify, in your opinion, your statement that he was very intimate with him?

A. I base my statement on the statements of Dr. Leesacker who participated in this trip and who prepared this trip.

Q. This is not information that Dr. Ilgner gave you?

A. No.

Q. Witness, I believe I can conclude my cross-examination with one question. In the light of the corrections or interpretations that became necessary in the course of my cross-examination, would you please explain how you arrived at this formulation, "economic penetration of the Balkans" and how you want to have that understood? When you made this statement did you think of an exchange of commodities by reason of commercial agreements with the southeastern states; or a preferential position of Germany, in the framework of a health international competition, or did you think when you used this phrase "economic penetration of balkans", of an illegal action which might be called spoliation or exploitation by German industry, and especially by Farben?

A. No, I think merely of an intensification of German foreign trade and German export, to attract these countries to Germany, in the economic interest of both partners.

Q. Thank you, very much.

I have no further questions, Mr. President.

BY DR. ASCHENAUER (for the defendant Gattineau:)

Q. Witness, you have been speaking of Mr. Massow. You said that Massow was the son-in-law of a director of Farben...

MR. SPRECHER: May I have just a moment. So far as I can now tell Mr. President, the reference to Massow is in the stricken part of affidavit NI 9512, which is Prosecution Exhibit 840, - I should not say the stricken part, I should say the part which we stipulated to have

left out of consideration entirely by the Tribunal.

THE PRESIDENT: Is that correct, counsel for the defendant?

DR. ASCHENHAUER: Mr. President, I did not want to ask about Massow, but only bring him in, in connection with another question.

Q. That question is, is your affidavit a compilation that you yourself made or was this affidavit submitted to you in the draft that you later signed?

THE PRESIDENT: The last question is proper; the first is not. You may answer the last question that counsel has propounded to you. Do you remember it?

A. The affidavit is an excerpt from very voluminous minutes that I have.

BY DR. ASCHENHAUER:

Q. Who made these minutes?

A. The prosecution.

Q. Thank you. Witness, in your affidavit NI 10,421, Exhibit 1064, you say that Dr. Gattineau was rehabilitated in the eyes of the Party despite the accident of the 30th of June, 1934. I ask you did Dr. Gattineau receive his old title back after the 30th of June, 1934, or did he remain in the Sa?

A. So far as I know, no.

Q. Thank you. Did he retain any position or office in the Party?

A. No, not as far as I know.

Q. Witness, you are speaking in the affidavit of the economic-political liaison office to the Reich Ministry of Economics. How many co-workers were in this liaison office?

A. That was I, myself, alone.

Q. Then you were the whole department?

A. That was it, the table of the organization from NW 7 in Berlin.

Q. Did you have prokura power, or power of attorney in Farben in 1937 in Berlin?

A. Neither the one nor the other.

Q. Witness, you were speaking of Major Bloch. Do you know that Major Bloch is a very old and close acquaintance of Gattineau?

A. I believe that.

Q. Thank you. Witness, in your Exhibit No. 200, you discussed a meeting at Loehse in 1927. Do you know anything about that from your own knowledge?

A. I could not remember that meeting when I was interrogated, which you can easily understand, but by a letter of Dr. Gattineau to Dr. von Surenberg, I was reminded of the fact that I myself and Dr. Eichner had been announced in this meeting by Dr. Gattineau and then I recalled the circumstances of the meeting.

Q. You assume that military economic questions in the pharmaceuticals field were discussed?

A. Yes, that can be seen because Dr. Eichner participated.

Q. That's a conclusion, because Dr. Eichner participated, those things were discussed.

A. These military economic questions were not confined to details but these questions were discussed within the framework of the entire enterprise. If I state this, I did it once because Dr. Eichner was there and because Hoechst was the center for pharmaceuticals at the time, as far as I recall.

Q. Your statement contains assumptions and conclusions from certain facts that you believe that you know.

A. The questions in these military economic discussions were always the same. I listed them in my affidavit and it is irrelevant whether they refer to the entire field or only to parts of this pharmaceuticals field.

Q. You speak of a military economic department. Was this department founded in 1939?

A. No, that was already established before that, as far as I remember, and if I remember correctly, it was established in 1938 already.

Q. Were you supposed to be subordinated to Terhaar in this department?

A. No.

Q. Why did you refuse to accept this department?

A. Because I didn't want to have any more to do with military economic questions, because I went to Farben in order to take over the foreign political trade liaison office, as it was called in the table of organization of Berlin NW 7.

Q. Wasn't the fact that you would have to have something to do with Terhaar of decisive importance, and the fact that you did not have good relations with Terhaar and his friend, wasn't that of important why you

refused your department and that you even asked him to have a duel with you?

A. I never asked anybody to have a duel with me.

Q. Do you maintain what you say if that friend, if Dr. Ahlmann would say something about that?

A. He can do that.

Q. I have all the letters here before me....witness.

THE PRESIDENT: (Interrupting): Please observe the yellow light because you're going a little too rapidly for the translators.

Go ahead.

BY DR. ASCHENAUER:

Q. Witness, you speak of the fact that you discussed mobilization questions when you entered Farben. Were you of the opinion that, in the field of mobilization preparations, not enough was done?

A. I have already said yesterday that nothing at all had been done in the commercial department as regards military economic questions and that I saw a danger that that's why I pointed it out to Dr. Gattineau. If I wanted to have worked on military economic questions, I could have remained at the Ministry of Economics where I would have been given a leading position for this purpose.

Q. Why did you resign from the Ministry of Economics?

A. Because I didn't want to become a member of the Party and, therefore, I could not be taken over as a civil servant.

Q. Thank you very much, Mr. Witness.

You instigated, didn't you, that the question of deferment should be treated more broadly?

A. I even instigated that it should be worked on at all.

Q. Witness, you wanted to extend the work of your department toward securing more exports, but you didn't do that?

A. I considered that also of importance in order to maintain export organizations and the working of industry for the civilian interests.

It is known that military men had large demands to make exhausted all capacities for their own armament purposes. I considered that speed dangerous and, therefore, tried to comply with the desires of the civilians and to stop the desires of the army.

Q. Witness, didn't you want to have the deferments worked on in your department but the sales combines while they wanted these questions decentralized and worked on in their own departments?

A. I didn't contribute to have these things brought into my department but, if I remember correctly, it was a resolution of the commercial committee to have the deferments worked on centrally in Berlin.

Q. Witness, these questions were worked on by you, you made suggestions about these questions although you thought to recognize a tyrannical policy with the offices?

A. That was the very reason why I made the suggestions.

Q. Excellent! Witness, you did not approve of the policy in Germany?

A. Where do I say that in my affidavit, may I ask you?

Q. I assume that from your position in regard to Schacht. You make pages of statements about Schacht.

A. Are you trying to say that Schacht "did not approve of the military policy," to speak in your words?

Q. I asked you, and I ask you to answer.

A. In my affidavit I said that as long as Schacht was in charge of the Ministry of Economics, rearmament was confined in certain limits being supported by all agencies. The limitless rearmament was not approved by Schacht and his collaborators and was rejected. Wherever we could, we opposed the extreme demands of the military. That's the sense of my affidavit.

Q. Witness, you said that you didn't belong to the Party. Didn't you belong to any of the so-called "national" organizations?

A. What do you mean by that? I didn't belong to the SA, I didn't

belong to the SS, nor the NSKK, but I belonged to the German Labor Front.

Q. Is it true that you worked on the side of the Kapp-Putsch?

A. It's true that I participated in the northern riots as a temporary volunteer and that I was made a wounded prisoner in the riots.

Q. Do you answer my question in the affirmative?

A. I said that as a temporary volunteer I participated in the revolts and in the Kapp-Putsch I was severely wounded after the coup d'état and Kapp-Putsch was combatted.

Q. My last question.

In 1923 you wanted to get a position with Dr. Duisberg. Was Gattineau preferred to you? Answer this "yes" or "no".

A. You can see that yourself. Gattineau was employed and I was not considered.

Q. Thank you. I have no further questions.

BY DR. HOFFMANN (for defendant Von Der Heyde):

Q. Witness, in your affidavit in Book 52, under 2, you mentioned my client. You pointed out that you had heard that he filled an important liaison function in connection with the acquisition of Austria and Czechoslovakia chemical enterprises. You say further that you had heard that he was in a position to do so since he had connections with Ohlendorf in the Ministry of Economics. Witness, Ohlendorf, at present, is standing trial before Military Tribunal II-A and indicted there where he describes his career and, on page 517 of the record of Military Tribunal II-A, he stated that he only entered the Ministry of Economics in 1943; Austria and Czechoslovakia were much earlier than that. Don't you think that what you reported from hearsay is wrong?

A. Then the way I formulated it from conversations in Berlin NW 7, I know that Dr. Ohlendorf was active in SS organizations for economic affairs and that he had an economic function which was of importance for Austria and Czechoslovakia and before Ohlendorf came Hailer in the Ministry of Economics. Then Herr von der Heyde had certain connections which he used.

Q. Was Ohlendorf actually in the Ministry of Economics or not?

A. Not at that time.

Q. But, in your affidavit, you say he was in a position to do so since as a SS man, he had connections with Ohlendorf in the Ministry of Economics. But he wasn't in the Ministry of Economics; then, it's wrong, what you said.

A. Yes, I should have added the word "later". "Later, in the Ministry of Economics."

Q. But one can't make an affidavit if it's wrong and if something has to be added. You admit that what it says here is wrong?

MR. SPEECHER: I object as argumentative.

THE PRESIDENT: It is argumentative. He has said that his affidavit is erroneous and has pointed out wherein it might have been corrected.

BY DR. HOFFMANN:

Q. Witness, you are speaking of a relatively large importance of my client. What do you understand by the word "relatively", first of all?

A. According to his position within Farben for, at that time, he didn't have power of attorney, he wasn't a prokurist and, for the relations at that time, he was of an importance that exceeded that of a normal employee.

Q. You are speaking too fast.

May I ask you what position did he have?

A. Dr. von der Heyde, as far as I remember, became entrusted with the questions of liaison that I had before I left.

Q. Excuse me for interrupting.

I, from what you said, understood that his position as such was not very important within MW 7.

A. He did not have power of attorney nor was he a prokurist. By reason of the fact that he was a member of the SS, he had a number of connections with the SS organization which were of value at the time, so that his influence was rather important.

Q. I must ask you, do you know to what purpose these possibilities for influence were used?

A. To establish connections of an economic nature.

Q. Was that necessary at all?

A. Certainly. In the situation then....

Q. Why was it necessary?

THE PRESIDENT: Just a moment. We can't operate this Tribunal unless counsel and witness cooperate here to make it possible for the Tribunal to have the translation of the testimony. Please observe the yellow lights. It appears that you are not paying very much attention to them. Please watch them, and when the light is flashed, slow down until the question is fully answered and the translators have had an opportunity to communicate the English version.

Go ahead.

BY DR. HOFFMANN:

Q. Witness, I want to ask you again, to what extent was it at all necessary that some one took up connections with the SS?

A. Necessary? It was necessary and important at the time for the measures in Austria, when Austria was annexed. I remember that Uhlen-
dorf's name was mentioned several times. The relations to the SS were established, as far as I remember, by her von der Heyde at the time.

DR. HOFFMANN: Mr. President, may I interrupt briefly.

According to information that I have, the witness of the prosecution, Dr. Krueger, can give information that is of interest to the case. This question is important to me. In compliance with the resolution of the Tribunal, according to which, in order to determine the truth, every side may talk to a witness, I attempted to speak to Dr. Krueger and I had the intention of asking him about this Austrian question since he knows about it and to find out from him, to have him swear out an affidavit which I might then submit for the purpose of refreshing the memory of this witness. Dr. Krueger explained to me that that was not possible; that he couldn't do that, he couldn't make an affidavit, since he was a witness of the prosecution, although he remembers these things as facts. I am now in the unfortunate position that....

MR. SPEECHER (Interrupting): May I interrupt just a moment, Mr. President?

THE PRESIDENT: Let Counsel finish his statement. He'll make it reasonably short.

Go on and finish the statement.

DR. HOFFMANN: I should have liked to have had the affidavit at this time to submit to the witness but as things are now, I may see myself forced to recall this witness into the witness box if Dr. Krueger is available to me, or that I might have the opportunity, if the prosecution agrees, to submit an affidavit of Dr. Krueger to explain these facts, for, quite obviously, the witness here doesn't know these facts and it would be of importance to have this affidavit submitted to him.

MR. SPEECHER: I only wanted to say, Mr. President, that this question has not been raised with me by Dr. Hoffman, and Dr. Hoffmann has raised several questions with me. Therefore, I was rather surprised to find that this question was raised without my fore-knowledge before Your honors in a way, which with other matters, parts of other matters somewhat took up your time unnecessarily. I won't go into the other matters.

The witness Krueger was brought here in the last days in connection with this cross examination. I don't know personally how long he has been here. He has been free for access to Dr. Hoffmann or anybody else and, indeed, many defense counsel have seen him in the past weeks, and I don't see why this is a situation of any kind that couldn't have been handled through a little ingenuity and, particularly, by contacting me in advance.

THE PRESIDENT: No, there is no reason why counsel may not submit an affidavit from Dr. Krueger, if he can obtain one. Neither does the Tribunal know of any obstacle to his conferring with the witness for the purpose of obtaining such an affidavit. That's all that needs to be observed by the Tribunal with respect to this matter.

But since we're talking about the cross examination of this witness, it is very apparent to the Tribunal that the matters about which you are interrogating the witness clearly appear to be based upon hearsay in the first instance. He states in his affidavit what he had been told or what he had heard. If he was a witness on the stand, that evidence would probably be incompetent in the first place, and while we do not want to control counsel too harshly in a matter of cross examination, we think that this is taking a lot of unnecessary time to interrogate this witness on things that appear on the face of the record to be based upon hearsay and not upon actual knowledge of the witness. You may take that observation for what it may be worth in shortening your cross examination.

DR. HOFFMANN: Mr. President, I have one more request which you

must take amiss. I don't know to what extent the Tribunal attaches any importance to hearsay. It has been treated differently by various tribunals and it is important for my decision whether I should continue my cross examination to know whether the Tribunal attaches importance or not. I should appreciate your injunctions.

MR. SPEECHER: Your honors, with respect to this particular testimony. I think you may or may not be in a position at the moment to make a general statement. I only want to say that in this particular case there is other connective testimony to which the hearsay opinion of this witness, who was active in Berlin, active in these offices, talking to these men who were dealing with these things, and we think thereby it has weight in this particular connection.

THE PRESIDENT: Well, you claim he is an expert in the field about which he testified?

MR. SPEECHER: No, we are not calling him, Your Honor, as an expert and I am not denying the fact that some of the testimony may be hearsay, but I say that it's very good hearsay, given the position he was in, and in those trials that kind of thing has often been brought into consideration, because the hearsay in connection with the objective event is very important very often and in interpreting these objective events because we are in no position, and I don't believe Your honors are in a position, here to penetrate the subjective mind to see the man's real objective.

THE PRESIDENT: The Tribunal does not desire to debate the question with counsel now. We are not passing on the admissibility of that evidence. We simply observed to counsel for defense that, since it appears that the testimony was based on hearsay, there wasn't much occasion for any extended cross examination on this ground. Now, that's all we said and by that we stand. We are not ruling on the contrary, we did admit the affidavit is not evidence. We simply observed to counsel for defense that since it appears on the record from the affidavit that the matter about which he is inquiring about is not, ac-

according to his own admission, within his personal knowledge, but only something he heard, there was no reason for pursuing too far the matter of cross examination. Now, that's as far as we made any comment,

Go ahead and ask your next question.

DR. RUFFMAN: Mr. President, I waive any further cross examination.

THE PRESIDENT: Any further cross examination desired? - - -
Any redirect examination?

MR. SPEECHER: Yes, Your Honor, one or two questions.

REDIRECT EXAMINATION

BY MR. SPEECHER:

Q. Witness, tell us whether or not you personally know whether Keppler, head of the Himmler Circle, had anything to do with the developments in Austria in connection with the Anschluss? Tell us whether or not you know. If you don't know, tell us.

A. No.

Q. You don't know?

A. No.

Q. Now, to a question by Dr. Aschenauer, you made some reference to the fact that the prosecution made certain records which were placed before you. Would you explain the situation to the Tribunal since no further question was asked you thereafter? Explain what you meant by these records.

A. Are these records for the affidavit?

Q. Yes.

A. I didn't understand your question completely.

Q. Perhaps I didn't understand completely your answer previously because of the translation problem, but I understood you to say that the prosecution had made, or else made available to you, certain records in connection with your affidavits. Would you explain that? Just tell us what happened.

A. I was interrogated repeatedly and minutes of the interroga-

tions were kept. From these reminders, the affidavits were compiled. For these affidavits, I myself made a few drafts personally by instigation of the interrogators from the prosecution.

Q Now, witness, will you tell us again when you left Farben? What year and what month?

A On the 10th of August 1939, I was drafted.

Q Did you have any intimate relations with any of the principal officials in I.G. Farben with whom you had previously worked, after the last of September 1939, in such a way that you could observe what Farben's policy was with respect to the occupied countries? Just say whether or not you had such a relation.

A No, I was a soldier during the war. I was not in Germany and had no relations.

Q Now, you made some statement concerning a similarity between the economic policy with respect to Southeastern Europe under the Weimar Republic and under the Third Reich of Hitler. When you spoke of that, did you attach to economic policy also the same type of political or foreign policy?

A I didn't understand your question completely.

Q Well, tell us whether or not you considered the political policy of Germany vis-a-vis the Southeastern countries the same as the Hitler or, let us say, the same after 1936 as it was under the Weimar Republic?

A In respect to the Southeastern European area I was thinking of the economic factor, first of all, and there I saw a continuation of a policy that existed already before 1933 too.

Q So then you weren't relating that to the foreign policy in the sense of the question of the dealing with these people in the Southeastern countries?

A These matters were intensified after 1933 and continued in intensity and with more plan to them.

Q Now, in connection with the political policy so far as the Southeastern countries were concerned, did you attach to that policy

what you testified yesterday was the bluff politics of Hitler?

A. We were speaking about economic matters and that, of course, had nothing to do with the bluff politics.

Q. Witness, tell us whether or not you attended some of the so-called Post-Besprechungen or mail conferences in Berlin?

A. I cannot recall whether the meetings that I participated in were called mail conferences. There were two different kinds. One was called mail conferences, but I don't know what the other was called. It has been too long and I request your clarification.

Q. I think I used the wrong term. I was referring to the daily conferences.

A. In the WIPU there were daily morning conferences. Then there was a weekly meeting of the various department, one representative each participated; and then there was a higher conference in which the responsible department heads participated where I only deputized or participated occasionally. I was not a standing member.

Q. With that qualification, I would like to ask you to recall being present at any conference when the defendant Gattineau spoke concerning correspondence or reports intended for Major Bloch?

A. This may have happened during the daily morning conferences of WIPU but not in the general conferences.

Q. Tell us whether or not you heard of the concept Vertrauensmann or "trustee man" in connection with your work for Farben?

A. There were so many concepts that I can't keep them apart any more. I know today that something like F.G. Verbindungsman, liaison man, existed, but I don't know if a trustee man or a Vertrauensmann existed.

Q. No further questions.

THE PRESIDENT: Any further cross examination?

If not, the witness is excused and the Tribunal will now rise for its morning recess.

(A recess was taken.)

THE MARSHAL: Military Tribunal #6 is again in session.

MR. DUBOIS: I would like to read into the record a little over a page statement concerning Count V, that there was a conspiracy to commit War Crimes and Crimes against Humanity. We prepared this statement and then discussed it as the position of the prosecution with Dr. Boettcher and Dr. Gierlichs and it was more or less understood that, at an appropriate time, Dr. Boettcher would pronounce the question to the Tribunal and we would read this into the record but, in view of the circumstances, I think we can read it into the record now.

Count V of the Indictment charges that these defendants participated as leaders, organizers, instigators and accomplices in the formulation and execution of a common plan of conspiracy to commit, or which involved the commission, of Crimes against Peace, including the acts constituting War Crimes and Crimes against Humanity which were committed as an integral part of such Crimes against Peace, as defined by Control Council Law #10, and are individually responsible for their own acts and for all acts committed by any persons in the execution of such common plan or conspiracy.

Now, the prosecution is charging only a conspiracy to commit Crimes against Peace. We have, during the course of the trial indicated that the definition of Crimes against Peace is not limited to planning, preparation or initiation of wars of aggression and invasion of other countries, but includes also waging a war of aggression and invasion. Now, although the matters charged in Counts II and III, relating to spoliation and slave labor, are recognized in Article II of the Control Council Law as being distinct crimes - namely War Crimes and Crimes against Humanity - they also constitute Crimes against Peace, in our judgment, to the extent that spoliation and slave labor are a part of the preparation for or the waging of war. Consequently, any acts charged in Counts II and III, which are an integral part of the preparation for or waging of aggression and invasion of other countries,

are also Crimes against Peace independent of the fact that they are also War Crimes and Crimes against Humanity. This is set forth in Count I, Sub-Division I, of the Indictment, where, at paragraph 84, the allegations made in Counts II and III of the Indictment are incorporated in Count I of the Indictment, thus bringing them within the charges dealing with the commission of Crimes against Peace. In our view, Control Council Law #10 and Ordinance #7 make conspiracy to commit Crimes against Peace a substantive crime which is separate and distinct from the offenses described in Count I. It is for that reason, that we have charged in Count V, as a separate criminal offense, a conspiracy to commit Crimes against Peace which is separate and distinct from the crimes set forth in Count I relating to the commission of Crimes against Peace itself. Accordingly...

DR. BOETTCHER: The interpretation is failing completely.

MR. DUBOIS: I am sorry, I think I am going too fast. We will later furnish you with a copy, too, by the way.

It is for that reason that we have charged, in Count V, as a separate criminal offense a conspiracy to commit crimes against peace, which is separate and distinct from the charges set forth in Count I relating to the commission of Crimes against Peace itself. Accordingly, if the proof establishes participation by the defendants in a conspiracy to Commit Crimes against Peace, which would make them individually responsible for their own acts and for all acts committed by any persons in the execution of such conspiracy, such conspiracy would comprehend the acts charged in Count II and III.

Now, that is the theory of the conspiracy charge which is plainly set forth, we believe, in the Indictment. There is no charge of conspiracy concerning war crimes and crimes against humanity, as such, but the conspiracy charge does reach to ask: Which are Crimes against Peace? Whether or not these acts are also War Crimes and Crimes against Humanity. --

I will have copies of this statement given to the Secretary General and also to the Defense counsel.

THE PRESIDENT: Very well. The Prosecution may call its next witness.

MR. SPEECHER: As the next witness, the Prosecution calls Gustav Kuepper.

THE PRESIDENT: Bring in the witness.

MR. AMCHAN: While waiting for the witness, if Your Honors please, there are four affidavits involved-- three of which are in Book 50, the fourth one in Book 56.

THE PRESIDENT: The witness will remain standing to be sworn, raise his right hand, say "I" and state his name.

WITNESS: I, Gustav Kuepper...

THE PRESIDENT: The witness will now repeat after me: "swear by God, the Almighty and the Omniscient, that I will speak the pure

truth and will withhold and add nothing."

(The witness repeated the oath.)

The witness may be seated.

DIRECT EXAMINATION

BY MR. AMCHAN:

Q Dr. Kuepper, now will you state your full name, please?

A Dr. Gustav Kuepper.

Q And do you understand English?

A Yes, I do.

Q Have you any objection to being interrogated in English on the direct examination?

A No.

MR. AMCHAN: Mr. Sorecher reminds me that this witness has been on the stand before and has been qualified.

BY MR. AMCHAN:

Q Have you before you, Dr. Kuepper, Prosecution Exhibit 1021, which is NI-2796A?

A Yes.

Q Have you read that recently?

A Yes.

Q Are there any modifications or corrections you desire to make with respect to that document?

A No.

Q Have you before you, Dr. Kuepper, Prosecution Exhibit 1037, being NI-2746B?

A Yes.

Q Do you desire to make any modifications or corrections with respect to that document?

A No.

Q Have you before you, Dr. Kuepper, Prosecution Exhibit 1039, being NI-8646A?

A Yes.

Q Have you read that recently?

A Yes.

Q Do you desire to make any modifications or corrections with respect to that document?

A No.

Q Will you please look at the second line of that document, where there is a reference to NI-2652. Have you anything to say with respect to that reference?

A I beg your pardon?

Q Have you anything to say with respect to that reference, the identification?

A Yes, this reference is the same as 8646.

Q So that if we substitute in your affidavit NI-8646 for NI-2652 we would be speaking of the same document, is that correct?

A Yes, that is correct.

Q Have you any other modification or change to make with respect to this document?

A No.

Q Have you before you, Dr. Kuepper, Prosecution Exhibit 1167, being NI-8783?

A Yes.

Q Have you read that recently?

A Yes.

Q Have you any modification or corrections to make with respect to that?

A No.

MR. ALCHAN: Before turning over the witness for cross-examination, if Your Honors please, I feel we should indicate the limited scope of the affidavits and the purposes for which the Prosecution has offered them. We have not elicited from this witness or through any of these affidavits the story relating to the legal camouflage; and I am addressing my remarks to the first three affidavits, the fourth

one relating to spoliation in Poland. The first three documents of this witness are very limited, he merely identifies other documents relating to legal camouflage, and he states that Dr. von Knierim was present and that Dr. von Knierim participated in the discussions. That is the sole purpose of Exhibit 1021. In Exhibit 1037 the witness identifies a document which is a draft of a letter, and in his affidavit he states that the particular draft was not sent to the Ministry of Economics, but a letter substantially concerning the same subject matter was sent. That is all the witness is testifying to and that is the only purpose of that affidavit.

In Exhibit 1039 he identifies a report which was submitted to the Legal Committee and he states that at that meeting of the legal committee Dr. von Knierim was present and approved the report. That is all we have elicited through this witness with respect to this subject matter.

Now, the fact that the report which he identifies is in evidence does not, in our view, open the door to the defense at this moment to interrogate on the entire subject of legal camouflage: We have not elicited through this witness the subject matter of legal camouflage.

With those preliminary observations, if Your Honors please, we are about to turn over the witness for cross-examination because—and I think it is important to refer to this—if the defense wants to put in its version as to what this legal camouflage was, the time, in our opinion, is to take that up when they present their case.

THE PRESIDENT: Does the witness in the affidavit make any statement of fact concerning legal camouflage further than to identify the document which is in evidence?

MR. ARCHAN: None, and we do not offer it for any purpose other than I have indicated.

THE PRESIDENT: Is counsel for the Prosecution willing that the record may show that the affidavits of this witness in evidence are to

be considered only for the purposes just stated to the Tribunal?

MR. AMCHAN: These three affidavits counsel concedes are to be considered by the Tribunal only for the purpose that I have just indicated orally.

THE PRESIDENT: And the Tribunal, we assume, will then be warranted as considering any other matter stated or contained in these affidavits the same as if that evidence will be stricken from the record and was not before the Tribunal?

MR. AMCHAN: That is the intention of the Prosecution.

THE PRESIDENT: Very well.

MR. AMCHAN: You may cross-examine.

DR. BOETTCHER (Counsel for Defendant Krauch): Mr. President, it seems to me that is a very important statement of the Prosecution regarding which we defense counsels have to discuss. If I may say something quite briefly for myself, it seems the case now that the Prosecution wants to determine the limits of cross-examination, while I was hitherto of the opinion that the Tribunal alone could determine the limits of the cross-examination. I should however be grateful for a short recess for about ten minutes so that we defense counsel present could briefly discuss this question.

THE PRESIDENT: The Tribunal regards the situation as similar to one where testimony is stricken from the record. In other words, the Prosecution has voluntarily withdrawn from the consideration of the Tribunal all matters embraced in these three affidavits, except those which it said it would rely upon just a moment ago.

We think it is within the right of counsel for either side to say to the court: "We do not rely upon this evidence; we do not think it adds anything to the case; we do not ask the Tribunal to consider it." We think counsel for the Defense or the Prosecution alike have a right to do that. And manifestly when that is done those matters which are in effect withdrawn are no longer before the Tribunal and will be no longer considered as a part of the evidence in this case. Now, that

being true, there would be no point in cross-examining a witness with respect to matters which the Tribunal does not expect or intend to consider and will not consider. We appreciate, however, that this comes somewhat in a way of a surprise to counsel for the Defense and, it may call for some short conference to determine how the cross-examination is to be conducted and by whom.

The Tribunal feels that perhaps if such a recess was granted it might shorten this cross-examination which is now in very narrow limits.

MR. SPEECHER: Mr. President, there is one thing that I personally tried to make clear to Defense counsel with whom I have discussed this problem beforehand, but, with your permission, I would like to state it in open court.

THE PRESIDENT: Very well.

MR. SPEECHER: In connection with the definite purpose which Mr. Amchen has stated, we think it only fair that the Defense should confine its cross-examination to that definite purpose, and that is all that stands in the affidavit, as a matter of fact.

THE PRESIDENT: I think the Tribunal would not agree with that, that the Prosecution can limit the cross-examination to what it intended to establish by the affidavit, -- but the Prosecution does have a right to withdraw from its consideration any parts of the affidavit that it thinks it does not need to rely upon. But for the purpose for which it offers the evidence that is before the Tribunal, it is not in position to say that the Defense is bound to adopt that theory of the purpose of the evidence.

MR. SPEECHER: Well, Mr. President, you have misunderstood me. In this connection I want to say two things: First, this is nothing that is being stricken in these affidavits, but we are merely indicating that Dr. Kuepper was used to authenticate certain documents and we did not bring out, apart from that, his views or his knowledge concerning further matters in those documents which he identified.

Now, secondly,--and this is what I rose to say reply,--we have no objection to Dr. Kuepper, who is quite readily available in Frankfurt, being called as a defense witness in order to go into other matters concerning legal camouflage which may be quite proper during the Defense' case-in-chief, but which are not now proper.

In other words, we are not trying to limit what the Defense may ultimately want to do through this witness, but for them to go into these other matters now, we feel would be incompetent, beyond the rules of proper cross-examination.

JUDGE MORRIS: May I suggest the practical problem with which we are confronted in making a definite ruling here? That develops, for instance, from this paragraph of Dr. Kuepper's affidavit, NI-2746B, appearing on page 86 of Volume 50 of the English translation in which Dr. Kuepper says: "Dr. von Schnitzler was certainly informed about the camouflaging system in general, and in particular of the camouflaging modifications in South America..." and goes on to the end of the paragraph with regard to that same subject.

Now, clearly, as the President has indicated, if that paragraph is stricken from the affidavit for purpose of consideration by the Court, then it is out as evidence; we do not consider it, neither do counsel for the Defense cross-examine regarding it. But there might be quite a difference in that situation from the one that seems to be developing here in which you simply say that these affidavits are presented for the limited purpose of identifying certain other documents.

I will admit, I am a little bit confused.

MR. AMCHAN: If your Honors please --

THE PRESIDENT: Just a moment. Would it be possible for the Prosecution to take a pencil and indicate -- mark out-- the parts of these affidavits that you are not relying on, and thereby reduce down to a practical matter just where we stand?

MR. AMCHAN : If Your Honors please, I think with respect to these three affidavits we have been misunderstood. We do not mean to withdraw or strike out anything from the affidavits. They stand as they are. We meant merely to indicate to the Tribunal that, in our view, this affidavit was limited in scope. We may be mistaken in our interpretation; it was just for the guidance of the Tribunal to indicate the direction or the limits of cross-examination as disclosed by these affidavits. We do not mean to withdraw the affidavits. And if the opinion of the Tribunal there is matter there which extends beyond mere identification-- and Judge Morris indicated there is matter--then we admit that is proper to cross-examine on. The affidavits, as we say, are there, not withdrawn.

THE PRESIDENT: We can put this matter at rest pretty easily. The Tribunal does not feel that the Prosecution has a right to limit the cross-examination by undertaking to state the purposes for which it produced the evidence. That is a matter which will have to be determined by the Tribunal after it considers the affidavit and the cross-examination, with respect to these affidavits or any affidavits.

We will permit the Prosecution to strike out any parts that it feels is improper or unnecessary to the presentation of the case if we know

precisely what is stricken out and counsel for the Defense know what has been stricken out. When any part of an affidavit has been stricken out we will not permit cross-examination relative to that part.

In view of the statement last made by the Prosecution, we cannot limit or restrict the cross-examination along the way we had hoped to do. This follows from the fact that the Prosecution is not willing to strike out any parts of these affidavits.

The cross-examination may continue.

MR. JUBOIS: May I just make a short comment? Mr. President, there are other cases--Mr. Sprecher made some reference to them--where we are actually striking out a considerable amount of material. I think myself that that is the proper technique.

THE PRESIDENT: Otherwise, we will be in a state of confusion as to what is before the Tribunal and as to what is the proper subject of cross-examination; counsel for the Defense will be left in a state of uncertainty which will defeat the very thing we are undertaking to accomplish.

Cross-examination may proceed.

CROSS EXAMINATION

BY DR. HENZE (Counsel for Defendant Dr. Kugler):

Q. Dr. Kuepper, you have been interrogated regarding legal camouflage; three documents regarding this were submitted which are before you at this moment, and to which I may refer.

In Document 2796A you talk of a report, a verbal report, which you delivered before the Legal Commission of the I.G. Farben. In this document you say, in the last answer but one, that this verbal report or lecture was sent out by you, and of the questions, which are the basis of this report, being discussed by you with several gentlemen, among these gentlemen my client Dr. Kugler.

I would like to ask you to answer a few questions which I am going to put to you. I do not have to go into details because you have put everything down very clearly, especially the fact that the camouflage

measures were started shortly after the end of the last war and that taxation consideration was often an impediment to German trade after the last war, and that industrial legislation were the reasons for these measures. May I ask you, Dr. Kuepper, have you also talked these matters over with my client? I don't assume that you can recall all the details, but I assume that you can recollect whether, in outline, you discussed these matters with him.

A. Yes, in general terms, I talked with Dr. Kugler about these matters in our plant because the countries under his jurisdiction were not so much interested in the question of camouflage. On several occasions I talked with Dr. Kugler about these matters, but I cannot remember the immediate causes for these discussions,

Q. You said your statement about camouflage dealt almost exclusively with the sales organization of I.G. Farben. May I ask you whether I.G. Farben had shares in foreign production companies and whether camouflage took place?

A. Camouflage of foreign factories only took place in cases where they immediately connected with the sales organization. The larger plants in northern countries in which Farben had shares were not camouflaged. For instance, the share of Farben in the Trafford Chemical Company; the share of the I.G. in the Bianchi in Milano, and the Agne in Milano was not camouflaged; nor the share of the I.G. in the Fence, which was 25% , I believe, but I do not know exactly because it did not fall within my jurisdiction. That the share of the I.G. was not camouflaged in Flix, in Spain; equally the 100% share in the Idanthren Haus was not camouflaged in Amsterdam for the same reason because the question of double taxation. The question of taxation of plants did not play any part.

MR. ANCHAN: If Your Honors please, this, we think, is outside the scope of the affidavit. We are getting back to the basic document which this witness could not elicit anything through the witness with respect to the purposes of camouflage.

DR. HENZE: Your Honor, my client was the sales manager in the dyestuffs division for several countries. He also was manager of the so-called Directionsabteilung Dyes. In this position he concerned himself with questions which also had to do with other countries.

He was in close official contact with Dr. von Schnitzler. These questions which I have just put to the witness referred more or less, in a more or less intensive manner to the superior type of activity....

THE PRESIDENT: Counsel the court is ready to rule on that matter.

In the Exhibit 237, NI 2764-B, in speaking of the subject of camouflage, the witness states in his affidavit in the large paragraph, near the first part of the document 4, "The aim was to be protected against war losses and to give said companies a chance to remain in business during the period of the war."

That would seem to justify the present inquiry. The objection is overruled.

BY DR. HENZE:

Q. I do not know, witness, whether this interruption has created the necessary clarity at which I am aiming. May I ask you again whether I have understood you correctly that in the case of the foreign factories in which Farben had shares, camouflage did not take place because of the reasons which camouflage, -- that is reasons of taxation, -- were not present in this case.

A. That is correct.

Q. I would like now to touch on another point new, witness. You say in your report that at some time or other, which you did not fix according to date, Farben was forced, -- you used the word "forced", -- because of the risk of war, in order to safeguard the organization and the securities abroad, to camouflage. May I interpolate here, witness? Did you also discuss these ideas with Dr. Kugler?

A. I believe that is possible, even probable.

Q. Then I may ask you, witness, at which date these points of view of a possible war were discussed between you and the other gentlemen competent in these matters?

A. So far as I remember the problem of safeguarding against the consequences of war were first discussed in 1938, and the occasion of a

new foundation of British India.

Q. Witness, the year 1938 was a very long year, and quite a number of things happened during that year. Might I ask you to be kind enough to specify the date in more detail? Was it in the first half or the second half of 1938?

A. So far as I remember, the discussions regarding the re-establishment of sales organization in British-India was in the summer of 1938; that must have been in July or August, 1938.

Q. At the time when the dark clouds called "Sudeten crisis" already appeared over the horizon?

A. It is doubtless that is when it appeared.

Q. Dr. Kuepper, in these discussions, did one stop at the assumption that Germany would start an aggressive war and that the consideration of camouflage referred to an aggressive war? In this was the gentlemen of the Frankfurt House, that is my client, Dr. Kugler, taking this into account?

A. There was no question of an aggressive war; there was a general feeling of the darkening of the general political situation, and the general talk not only was in Farben, but in the whole German public about the possibility of war; the kind of war, that was not discussed.

Q. I may refer to the word, "forced" which I stressed some time ago. May I ask you why you used this word? Was there a special reason?

A. I believe to use, "forced" is a bad expression in this context. "caused by the situation" is a better phraseology. Force would have to be exerted by a special person or by an industry, but that was not the case.

Q. If I have understood you correctly this was a measure which Farben had to take because it was without its fault the political situation had war caused.

A. I believe that is a right formulation

Q. Dr. Kuepper, you are an expert jurist in the field of insurance; these camouflage measures cost money. These measures cost money. The business man does not like to spend money if there is no sense in doing that. Could you compare these measures with the insurance against the threat of war?

MR. AICHAN: I think that the question is improper.

THE PRESIDENT: The witness has testified in his affidavit, the purposes of the camouflage, and has stated that the possibility of war, in effect, is one of the considered facts.

Now it would be proper for counsel to develop on cross-examination what kind of a war, or what eventuality might result in war he had in mind when he made this statement.

The objection is overruled.

MR. AICHAN: I might say the objection was mainly to the comparison to insurance, and I got the impression that they were going to bring the insurance business with respect to I.G.

THE PRESIDENT: We won't bring in the insurance field, but it would be proper if not going too far. The objection is overruled.

DR. KUEPPER:

Q. Mr. Kuepper, do you remember my question or shall I repeat it?

A. No. I remember it. It would be admissible. The comparison is not only safeguarding against the threat of war, but the insurance against the risk of war.

Q. I don't know whether I have been informed correctly in discussions with people outside this court, that around the same time which you have mentioned, just now, people in Germany and in other countries, took the course to insure against the threat of war in all kinds of business which took a longer time.

May I ask, Dr. Kuepper, whether you share my view?

A. Yes. The war insurance was in the framework of transportation policies, was I believe, but I am not quite sure, a measure at that time

usual. To be more explicit, war risk is usually contained in every transportation policy; it was not always used. At that time, if I remember correctly, an increased use of the coverage against the risk of war was made.

Q. Thank you. Dr. Kuepper, it is known that the camouflage aims of I.G. was met with violent opposition on the part of officers of NSDAP. May I ask you whether the subject of your conversations with your colleagues in Frankfurt, - that is also my client, was as to how one would meet the objections of the party?

A. The resistance of the organization of the NSDAP was the subject of discussions which were held in Frankfurt at this time.

Q. Doesn't the fact that the party officers were against these camouflage intentions, demonstrate that the political attitude of the I.G. directorate was not in conformity with the party?

A. At this point, undoubtedly Farben opposed the party's point of view in this regard. I can remember a meeting regarding the question of camouflage in British India, where one of the members of the Foreign Organization told me that Mr. Hess was very furious about the plans of the I.G.

Q. And Dr. Kuepper, since you remember this gentleman, do you also remember any discussion which did not take place in India, but in Germany, that this chief of the Foreign Organization of the Party, did not agree with the camouflage at all, and said whether I.G. doubted that war would be victorious because it believed that it had to camouflage?

A. I remember that something was said about that, but I do not remember whether this statement was made by the representative of the Party in my presence.

Q. Thank you. May I now come to another point? I assume that you have also talked about these matters with your colleagues at that time. I want to put it quite briefly, Dr. Kuepper, do you agree with me that some of the planners for an aggressive war was convinced of the

virtorious outcome?

A. Yes.

MR. AICHAN: I object, Your Honor.

THE PRESIDENT: That would hardly be pertinent. The answer will be stricken out and the objection to it will be sustained.

BY DR. HENZE:

Q. Dr. Kuepper, is it known to you that foreign firms in Germany and in other countries have also used camouflage measures?

A. Yes, I remember that because, I believe, a lawyer of the Mond Nickel Company in Canada.....

MR. AICHAN: I object, it is irrelevant.

THE PRESIDENT: The objection is overruled.

BY DR. HENZE:

You may answer, Dr. Kuepper.

THE PRESIDENT: It has been answered. The objection was to strike out the answer; the objection is overruled.

DR. HENZE: May I put a question, Mr. President?

THE PRESIDENT: Certainly.

BY DR. HENZE:

Q. Thank you. I asked you, Dr. Kuepper, whether it is known to you whether foreign firms than Germany or other countries, used camouflage measures?

A. Yes, I know it because a representative of the Mond Nickel Company visited me during the 30's, I believe, the middle of the 30's, and he inquired from me in great deal about the camouflage system of Farben and he said in explanation that he would improve his own system according to that and he was grateful for the explanations we gave him.

Q. Dr. Kuepper, if you gave these informations to this gentleman, I am struck by the idea, could you do this, if such measures which were taken in the framework of an aggressive war, - this would have been treason.

THE PRESIDENT: That would be the ultimate fact for the Tribunal to determine, that would be improper. He can show what did happen, what other countries did do, and he has shown that, but the conclusion as to what that established is for the Tribunal. It is improper.

Ask another question, counsel.

BY DR. HENZE:

Q. Dr. Kuepper, is it known to you that American firms, that is Shell and Standard, camouflaged in Germany; Hydrierwerke Poilitz, A.G. was used for this purpose; for Farben and the other two firms had a share of it one-third each in this firm?

A. Yes. I do know the details, but I remember that Shell did not take over this share, but that a trustee was used.

Q. Dr. Kuepper, if I put it to you that this was a bank, can you then recollect the name?

A. No.

Q. Did you ever hear of the Bank Delburg-Shickler in Berlin?

A. Yes, Delbert-Shickler was the one.

DR. HENZE: Mr. President, I have no further questions.

THE PRESIDENT: Is there any further cross-examination of this witness? Will there be any further cross examination after counsel who is now at the stand has interrogated the witness?

(Two hands shown).

THE PRESIDENT: Very well, we will, under the circumstances, I think rise for our noon lunch until one-thirty.

(The Tribunal recessed until one-thirty o'clock.)

AFTERNOON SESSION

(The Tribunal reconvened at 1330 hours, 28 October 1947.)

THE MARSHAL: Tribunal VI is now in session.

BY DR. DRISCHEL (counsel for the defendant Ambros):

Mr. President, may I be permitted to ask whether the Tribunal is interested to hear the point of view of the defense to the question touched upon by Mr. Dubois this morning?

THE PRESIDENT: You have reference to Count V of the indictment?

DR. DRISCHEL: Yes.

THE PRESIDENT: The Tribunal would prefer to confer about it, and perhaps if we do wish to hear you, we may be able to limit, or rather suggest the issues that we might wish to have discussed. We will advise you later with respect to that.

DR. DRISCHEL: Thank you Mr. President.

CROSS EXAMINATION

DR. KUEPPER (continued)

BY DR. von KELLER (counsel for the defendant von Schnitzler):

Q Witness, the subject of my question will be your affidavit, NI 8783, Exhibit 1167, in Document Book 56, in the German on page 125; it is book 56. The next to the last document, Mr. President.

Witness, in your affidavit you say something about Polish factories, in two separate places, in the first paragraph, and also at other spots. First of all I would like to find out what factories you mean. Do you mean dyestuffs factories quite generally speaking?

A Yes, mainly dyestuffs factories. Each one of these factories was a dyestuffs factory which might have produced other chemicals, too.

Q The largest of these factories, if I understand it correctly, was Pabianice; is that right?

A I do not know the order of magnitude but I believe Pabianice was the largest.

Q Do you include this Pabianice plant in your affidavit?

A No. That was a Swiss property.

Q Wola also belonged to these dyestuffs factories. Does your affidavit which discusses the acquisition of factories also include Wola?

A So far as I remember, Farben never intended to acquire Wola.

Q The next factory I believe I have to name Winnica; is it correct that Farben acquired Winnica only to an extent of a 50 per cent participation because Farben was co-founder of the plant, and even if not in appearance, nevertheless economically speaking, possessed Winnica to 50 per cent?

A 50 per cent of Winnica lay in the hands of Establishment Kuhlmann and 50 per cent I believe was owned by I.G. Chemie in Basel.

I think you are going a little too far if you say that by I.G. Chemie's participation in this enterprise, - Farben economically owned 50 per cent. They had a certain influence, but that is all.

Q Would Farben, without any warlike incidents, have had the opportunity to acquire these 50 per cent participations?

A Practically, yes.

Q Did they have a claim to acquire them?

A As far as I remember, there was an option agreement with I.G. Chemie according to which Farben was entitled to acquire all of those properties which I.G. Chemie had gotten possession of, but this option agreement was revoked. I do not know whether it had already been abrogated during the Polish campaign. I believe it was later. At that time this option agreement was still in effect.

Q Is it correct if I say, that so far as you remember, the subject of your affidavit refers only to 50 per cent of Winnica?

A That is correct.

Q The fourth of the four larger Polish dyestuffs factories is Beruta. You are speaking of an acquisition of this Boruta plant, which was of decisive importance for Farben. Is it true that from the start Farben did not want to acquire Beruta but wanted to lease that plant?

A That is correct. In the beginning only lease negotiations were

carried out in regard to Beruta. Later on the main trusteeship agency East, wanted to sell these properties taken over by the Reich in the Warthegau, and did not want to rent them out. That is how this later agreement came about.

Q A considerable reason why this was acquired was the initiative of an official agency; is that right?

A Yes, but you must mention also that in the case of a sale, that was desired, Farben was instrumental in effecting the acquisition.

Q You speak about the reasons which moved Farben to effect the acquisition and you say, "Because Farben considered it important not to have these dyestuffs getting into the influence of foreign enterprises and thus create an extraneous nucleus in the Farben plants in the German Reich". May I ask you who was the main applicant, the competitor next to Farben?

A I believe the Brothers Gutbroth, or something like that, members of the SS, who had considerable influence on the main trusteeship agency East.

Q Is it correct that the SS stood behind the efforts of these brothers Gutbroth?

A I believe so but I have no positive proof that the SS supported these endeavors.

Q Would the SS or the brothers Gutbroth have been able to lead and direct the Beruta enterprise with the same efficiency as was done by Farben?

MR. SPRECHER: I object to that as being beyond the scope of the cross-examination leading to a completely collateral issue with respect to the whole spoliation complex whether or not someone else in Germany could have done it better or worse; with respect to how efficiently the operation in the country could be run, is certainly beyond the scope of the inquiry.

DR. von KELLER: Mr. President, may I answer this very briefly. In paragraph 2 of the affidavit it says, "I.G. made efforts because they considered it of decisive importance" this word, "because" gives the reason, and I am trying here to point out that not only the reason stated by the witness but other reasons not stated by the witness, were of importance, and therefore I believe that the efficiency in directing a dyestuffs enterprise may be a reason why Farben was called in.

THE PRESIDENT: The objection will be overruled. The witness may answer.

MR. SPRECHER: May I state that the prosecution will stipulate to the fact that there is no question but what I. G. Farben could run this property more efficiently than the Gutbroth Brothers or anyone else so far as we know in all of Germany.

THE PRESIDENT: That would probably dispense with your question since that admission is on the record on the part of the prosecution.

DR. VON KELLER: I am very grateful to the prosecution for this stipulation, and I should like to draw conclusions from that stipulation in regard to which I may be permitted to put a question to the witness.

BY DR. VON KELLER:

Q. Since the prosecution stipulated just now Farben had the technical ability to direct this Boruta enterprise more efficiently, do you believe therefore that Farben also pursued social aims when they acquired Boruta?

A. I know that it was discussed at the time that the Brothers Gutbroth would run this enterprise down completely and that the consequence would have been a debacle of Boruta and that therefore one can say that Farben would have regretted the consequences for the enterprise and their workers if the others had taken it over.

Q. Another reason for Farben's activities may perhaps also have been that the largest part of dyestuffs production in Germany was centered in the Rhine-Main area and that therefore from a military point of view it was especially endangered.

A. The dyestuffs enterprise Boruta was welcomed as an opportunity of decentralizing the dyestuffs production

from the very start in case the Western plants might partly be eliminated for reasons of the war.

Q. Witness, in the next two paragraphs of your affidavit, you treat the legal aspect of the acquisition. As stated previously, 50 per cent of Winnica and Boruta are concerned. Your affidavit, as far as I understand it, refers in these two paragraphs only to Boruta. Is that correct?

A. Yes, that is so.

Q. Is it correct that the reason of your limitation that you have made just now, is the fact that the other 50 per cent of Winnica were acquired in a commercial way and not by way of authorities or agencies?

A. That is correct. They were acquired in a commercial manner later on.

Q. In these two paragraphs, you speak of the legal difficulties that resulted in the Boruta case. Did one not have to take into account in this connection that more than 80 per cent of the Boruta shares belonged to a bank of the Polish state and that, therefore, this was really property of the Polish state to more than 80 per cent.

A. The fact that it was property of the Polish state was again and again mentioned in the internal discussions.

Q. Would there have been an opportunity at all in Germany to criticize measures of the Reich, for instance the establishment of the Main Trusteeship Agency East or to investigate measures taken by the Reich authorities?

A. At that time, it would probably have been very dangerous to render a legal opinion which criticized acquisition or confiscation of Polish values by the German Reich.

Q. Mr. Witness, in the remaining part of your affidavit, you discuss the shipments which went to the Wehrmacht.

On page 3 of the affidavit, the third paragraph, there is a sentence that contains no subject and it begins: "They furnished goods to the Wehrmacht," but you don't say who. Does that refer to Boruta? Didn't Boruta furnish goods first of all to private industry?

A. The sentence that begins "They delivered goods to the Wehrmacht" referred to the Litzmannstadt textile industry. Boruta itself shipped goods to the textile industry. Boruta itself shipped goods to the textile industry and that is indirectly to the Wehrmacht.

Q. In the next sentence, - oh excuse me, in the next sentence after the next, you say: "Their equipment, in any case a part of it, was taken over by Farben and removed to Germany." May I ask you, do you know a lease agreement about a plant which Farben leased and the rent of which was fixed at a thousand marks per annum? In case you do not know this agreement, it is a contract about the Beta-Oxy-naphthyl'acid Plant of Wola, Document NI-8378 of the 11th of June, 1940. Do you know that this plant is concerned here?

A. This contract is no longer in my memory.

Q. Do you know that a tetraphenon plant is concerned here in Winnica?

A. I don't remember that either.

Q. Do you remember approximately the extent-- that is the value, of these enterprises? May I tell you that a witness whose affidavit has been submitted estimated this value at about 10 to 20 thousand marks altogether?

A. I do remember very well that in the case of the enterprises under discussion here, they are extremely low in value, comparatively speaking.

Q. In the last paragraph of your affidavit, you

speak of the Polish workers who were employed in the Boruta Works. You say that they were in danger of being deported to the Government General. May I ask you, was this deportation not prevented by the fact, by the very fact, that Boruta was kept alive?

A. That is true. I remember that the gentlemen Schwab and Schoener endeavored at the time to have the Polish workers retained in the Boruta Plant and that a deportation was prevented.

Q. Didn't Farben make it possible to secure the continuation of the work at the Boruta and to prevent deportation of the workers?

A. To answer this question would exceed my judgement. What I know is that Farben modernized the old plants of Boruta and that they invested a large amount of money in this plant.

Q. The last point is your statement to the effect that a part of the salary of the Polish workers was held back and transferred to an office for so-called compensatory payment in the Warthegau. Was that a measure initiated by Farben or was that a measure which had been ordered by the authorities?

A. This measure was ordered by the German authorities in Litzmannstadt. The representatives of Farben--that is Herr Schoener and Herr Schwab--tried to combat this measure by all means and to see to it that the Polish workers in this enterprise had good living conditions and better living conditions than corresponded to the intentions of the German Government at the time.

Q. The final question of mine is a request for an explanation. Would Farben have been able to evade this measure? That is to say, by paying higher wages to these workers?

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A. No, that was controlled so minutely that an evasion represented a considerable danger.

Q. Thank you very much, witness. I have no further questions.

BY DR. SILCHER:

Q.- Silcher for Herr von Knierim. Dr. Kuepper, in your affidavit, Exhibit No. 1167, NI-8783 -- that is the same affidavit that was just under discussions now, you say that at a later period the legal committee of Farben spoke about the question of acquisition of the Polish factories. At that time, Heinzeler discussed the legal situation in the occupied territories, you say, and that at that time he termed the acquisition of this property by Germany doubtful from a legal point of view.

In this connection, I should like to put to you the following question. Was this the legal committee meeting on the second of October, 1940, in which you yourself discussed a few questions, among others the question of camouflaging German sales representatives abroad?

A.- I don't remember that exactly.

Q.- But is it possible that the time is correct?

A.- Yes, it may be.

Q.- If I put to you that the record of this meeting showed that Heinzeler excluded the incorporated Eastern territories and the Government General at the time from his conversation, by saying that these were no longer to be considered occupied territories in the sense of the Hague Convention, and that his lecture therefore could only deal with the occupied territories which were the Netherlands at the time and, if further, it can be seen in no way from the records that the Polish affair was discussed and if, further, other participants in this legal committee meeting -- that is to say, all whom I could reach in the meantime, -- do not remember that in this or in any other meeting, this Polish affair was discussed, then do you still maintain what you say or perhaps is your memory somewhat deceptive?

A.- When I swore to this affidavit, the minutes of the legal Committee meeting were not in front of me. It was not read to me either.

That is, when I drafted my affidavit, I remembered only that the legal committee meeting discussed certain measures of the Reich government in the occupied territories and that they were termed legally dubious and I believed that I remembered that it also referred to Poland. If you say to me now that the record of the meeting shows that Poland and the Government General were expressly excluded, then my recollection in regard to this point was clearly wrong.

C.- Did you discuss the acquisition of the Polish factories under the legal aspect with Herr von Knieriem?

A.- No.

Q.- Did you learn that he discussed this question with somebody else?

A.- No.

Q.- May I come back once more to your affidavit Exhibit No. 1039? That is NI-8646-A about camouflage. In that affidavit, in connection with the lecture that was given, you cite as the first reason for the camouflage the reasons of taxation and, secondly, you mention safeguarding against a possible threat of war. From what moment on -- and give me the approximate year please -- did Farben camouflage their foreign sales organization?

A.- That goes back a long time, long before 1930. For reasons of taxation, this camouflage operation was in effect. It may be that it was already before the First World War. I remember a taxation trial which the Badische had to conduct because of its factory in Switzerland, a trial which was adjudged against them and which gave the instigation for a certain amount of camouflage. At any rate, when I concerned myself with these questions and that was beginning with 1930, a camouflaging of sales organizations for reasons of taxation was already in effect to a large extent.

C.- If I understood you correctly this morning, you said that the

aspect of safeguarding against a danger of war entered in the picture only in the year 1938.

A.- Yes, beginning with 1938, as far as I remember.

Q.- If, in your statement and lecture, you mentioned the danger of war already as the second reason and only as a third or fifth reason you give the numerous difficulties and discriminations against the activity of foreign firms in other states, then it is not the correct chronological order?

A.- No. The sequence was arrived at by accident. It is not an accident, however, that the question of taxation was put at the head of the reasons, for taxation was the reason from the beginning and remained the predominant reason for this camouflaging.

Q.- Is the fact that you mentioned safeguarding against war in the second instance -- to be explained that you gave this lecture during the war October 1940 at a time when these reasons were of prime importance?

A.- That may be the reason, but you shouldn't attach such an importance to the sequence of reasons because the question of taxation was again mentioned later on. I believe, in connection with the camouflaging in British India.

Q.- Yes. At the end of your affidavit, you say the general approval of your report and that no objections were raised against it was construed by the members of the legal committee as an approval and as an authorization to continue the affair in the manner in which you explained them.

Did the legal committee give any approval? Was it authorized to give such approval?

A.- No, this is only an unanimous resolution within the circle of lawyers of Farben to proceed according to this policy but this did not exclude that the individual heads of the sales combines might have

demand a different attitude in this respect. The legal committee could by no means bind the other organization of Farben.

Q.- You said that the legal committee could not make any commitments for the remaining organization of Farben. To illustrate that, let's assume that after this meeting and the agreement achieved in this meeting to the effect that the policy suggested by you was expedient if Herr Kommerzialrat Otto as the head of Agfa Sales combine wanted to have this question treated in a different way in his foreign sales organization would then this unanimous agreement have prevented him from carrying his intention out in any way?

A.- No, this can be seen from the fact that the extent and the intensity of the camouflaging methods differed in the various sales combines. It had been worked out in the dyestuffs field completely and thoroughly, in other fields it was not so complete, but if Kommerzialrat Otto for instance was principally opposed to the resolution of the legal committee and if he would have raised objections, he was free to do so.

The lawyer of the Photo-Field could then have given his opinion, either in writing or at the next meeting.

Q.- Dr. Kuepper, this morning you compared this camouflage with insurance and in this connection I ask you, didn't the insurance organization of Farben, even when the war broke out, maintain their cover insurance in the English insurance market?

A.- Yes, that is correct. To put it briefly, the fire risks of Farben were overwhelmingly consolidated in their own insurance company Fallas and this insurance company concluded cover insurances in England. That is, an insurance of 33 1/3% and an excess of loss insurance.

MR. ALEXANDER: One moment, please. I think we are getting into irrelevant matters on particulars of insurance.

THE PRESIDENT: The Tribunal indicated this morning that it didn't care for much testimony on this insurance angle of this camouflage program. The question is answered, and we think sufficiently. Counsel may ask another question.

DR. SILCHER: That was my last question, Mr. President.

THE PRESIDENT: Any further cross-examination of this witness? Any redirect.

REDIRECT-EXAMINATION

BY MR. ALEXANDER:

Q.- Dr. Kuepper, you stated at cross-examination that the Auslands organization of the Nazi Party objected to Farben's camouflage and that I.G. Farben opposed the Party in that respect. Is that correct?

A.- That is correct.

Q.- Did I.G. Farben discuss camouflage measures with the Reich Ministry of Economics.

A.- Yes, it did.

Q.- What arguments did I.G. Farben present to the Reich Ministry of Economics in an effort to persuade it to approve of I.G. Farben's

camouflage?

A.- I.G. first emphasized the whole tax situation. In particular, the risk to come under a double taxation. It emphasized that the whole internal matters of I.G., of balance sheets, etc., had to be explained in foreign countries. For instance, in British India, and it called the attention of the German Ministry for Economics to the fact that the German situation, as far as foreign currency was concerned, would be highly endangered. As a supplemental reason was given to safeguard I.G. assets against seizure in case of war.

Q.- Did the Reich Ministry of Economy approve of the Farben plans to camouflage its assets abroad?

A.- It did after having overruled the objection of the A.O. and that exclusively for the reason that otherwise the income of Germany in foreign currency would deteriorate.

Q.- Were substantial savings in hard foreign currency actually made as a result of this camouflage?

A.- Yes, several million marks a year. As far as British India is concerned, at least two million rupees a year were at stake.

Q.- Was such foreign currency made available to the Reich?

A.- Yes. Any income in foreign currency had to be delivered to the German Reichsbank with the exception of special purposes approved by the Ministry for Economics or the competent office for foreign currencies.

Q.- Would it be a fair statement, Dr. Kuepper, to say that the reason why I.G. Farben opposed the Auslands organization of the Nazi Party with respect to camouflage was that the Nazi Party's program would have been harmful to I.G. Farben from the financial viewpoint?

A.- That's correct.

Q.- Now, you referred Dr. Kuepper, to a visit, in response to counsel's question, made to you in 1930 by representatives of foreign business organizations to discuss camouflage. Was 1930 the correct date?

A.- No, in the middle of the 30's,

C.- I beg your pardon.

A.- It was in the middle of the 30's. 1935 or 1936, perhaps.

Q.- Did the discussion with these foreign representatives relate to camouflage?

A.- Yes.

C.- Did that relate to measures to be taken to protect assets abroad in the event of seizure in the event of war?

A.- No, solely the tax situation.

Q.- Isn't it a fact, Dr. Kuepper, that, after the summer of 1938 when you say camouflage was undertaken to protect assets abroad from seizure in the event of war - as you indicated, that was the first time it was discussed. Is it a fact that after that period, that time, you, meaning, I.G. Farben, reexamined your entire camouflage setup in order to ascertain whether additional camouflage measures need be taken to protect it from seizure in the event of war? Is that a fact or is it not?

A.- That is correct with a certain exception and this exception is that in England new rules as to discovering camouflages had been issued and that was one additional reason to improve the camouflaging system applied in England, but, for rest, you were correct.

C.- You referred, in response to a question from counsel, that Standard Oil and Shell joined in a camouflage arrangement with respect to the hydrogenation plant at Pomeritz. Are you personally familiar with that transaction?

A.- No, only in general lines. It was not in the line of my business.

C.- Is it a fact, Dr. Kuepper, that the only reason why I.G. Farben had to confer with the Reich Ministry of Economics was because I.G. Farben intended to conceal its ownership with respect to business orga-

nizations abroad and sought the approval of the Reich Ministry of Economics for that purpose? Is that a fact?

A.- No, that is not correct. The reason why all these questions had to be discussed with the German Ministry for Economics was that in all camouflaging cases transactions in foreign currency was involved and such transactions had to be approved by the German Ministry for Economics which was the main office for giving the approval necessary for such transactions.

Q.- Would there have been any need to confer with the Reich Ministry of Economics if you had not intended to conceal your ownership in business enterprises abroad?

A.- If there would not have been any transaction in foreign currency involved, we would not have been under the obligation to approach the Ministry in such questions.

Q.- Would camouflage measures necessarily involve a question of foreign currency?

A.- Yes, because these transactions always included share transactions. Namely, transactions in shares of foreign holdings and these transactions were only allowed with the approval of the competent German authorities.

Q.- And was the purpose of these transactions to conceal Farben's ownership in these foreign business enterprises?

A.- The purpose was the one you mentioned just now.

MR. ANCHAM: Mr. Sprecher has some further questions on redirect.

BY MR. SPRECHER:

Q.- These questions, Mr. President, do not deal with the same topic obviously, solely with the question of the Polish case.

Dr. Kuepper, tell us whether or not you know of any Polish law which would have prevented Farben from directly participating in a Polish chemical plant before 1 September 1939?

A.- I don't remember any such law.

Q.- Tell us whether or not it was ever brought to your attention that the option which Farbman had with I.G. Chemie in connection with the Polish chemical plant Winnica, was brought to your attention before 1 September 1939?

A.- Yes, I know that this option agreement was in existence. It had been in existence long before that time.

Q.- Now, I have a question that's partly directed to the fact that I don't believe I completely understood an answer you made, and the first question is therefore informational.

You said that the property of the Polish state was mentioned again and again in certain discussions. Did you describe the nature of these discussions or did you not in your prior testimony?

A.- No, I didn't. You refer to the fact that about 80% of the Boruta was in the hands of the Polish State Bank?

Q.- Yes, in your testimony in connection therewith.

A.- Yes, this fact was repeatedly mentioned in the course of discussions.

Q.- What discussions are you mentioning? In the legal committee, or—

A.- In the internal discussions in Frankfurt,

Q.- And for you, what do internal discussions in Frankfurt mean?

A.- No official meetings. Just occasional meetings we had between ourselves.

Q.- And whom do you include in that concept "ourselves"?

A.- The persons who were at that time occupied with the transactions in question. Herr Schwab, Herr von Schnitzler, myself, as far as the legal side of the matter was concerned.

- Q Now, you made some statements on cross examination with respect to the deportation of Poles and the fact that the operation of the Boruta plant possibly or probably had some relation to preventing those Poles being deported from Germany. May I ask whether you said that was a possibility, or did you discuss the matter with Schwab who talked about the matter?

A No. At that time any Polish laborer who was unemployed or employed in unimportant work was practically displaced to the Generalgouvernement and the fact that the laborers of the Boruta were in employment and in important employment prevented them from being deported to the Generalgouvernement.

Q When did you learn of that? I mean, is that something you have made your mind up about now, or did you discuss that at that time.

A No, at the time, I had a number of discussions with Herr Schwab at that time, who as I remember very well, was terribly upset about the deportations which took place at that time. That's why I was recollect the case so distinctly.

Q Did this come to your attention solely because of your discussion with Schwab or did you discuss that further with other persons concerned with this matter, such as you have just described so that you can talk about whether or not this was part of the policy of I.G. Farben or whether it had any relation to the policy of Farben?

A I only recollect the fact from discussions I had with Herr Schwab.

Q And one other question. Do you know how many German laborers were employed in Boruta after 1 September 1939? I mean persons who were Volksdeutsche?

A I don't recollect any exact figures, but I believe, but may be mistaken, that the majority of the employees, including the laborers, were Polish.

Q No further questions.

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Q No further questions.

THE PRESIDENT: Any further cross examination now.

Now, counsel, may we remind you that cross examination had been closed except as to the matters brought out by the Prosecution on their redirect examination so we do not get too far afield.

DR. HENZE (Defense Counsel for defendant Kugler): Yes, Mr. President. I merely wanted to discuss one point which Mr. Amchan touched upon and which is not the subject of the affidavit.

RECROSS EXAMINATION

BY DR. HENZE:

Q Dr. Kuepper, Mr. Amchan talked to you about the function of the Ministry of Economic affair. I want to clarify one thing and ask you, do you know that the Ministry of Economics had a two-fold function because the Reichsbank had given authority to the Ministry of Economics to decide questions of foreign currency?

A That is absolutely correct, but I already said, in my answer to Mr. Amchan's question, that the Reich Ministry of Economics had the task of being the main authority for questions of foreign exchange.

Q Thank you very much.

BY DR. GIMLICH (Defense Counsel for Geheimrat Schmitz):

Q Dr. Kuepper, I have two brief questions in connection with the redirect examination by Mr. Amchan. To his question you answered that, beginning with 1938, the aspect of danger of war played a part for the considerations for camouflaging activities. In this connection

I would like to put to you whether you remember that certain camouflaging measures which were, in a precipitated and hasty manner, initiated by Farben when the Sudeten crisis approached, in regard to the property in England, and that after that danger had passed, these measures were not pursued any further, and that during the remainder of 1938, nothing was done, and that during the beginning of 1939, nothing was done, and that only because of the surprising invasion of the remainder of Czechoslovakia and the general discussion of a danger of war caused Farben to concern itself with this problem?

A That's correct. The improvement of measures to safeguard against war in regard to England is correct.

Q Is that a decisive reason in that that risk in England was considered the largest in connection with a foreign combine?

A Apart from British India, it was the largest risk.

Q One further question. Mr. Amchan tried to clarify what, in the final analysis, had been the sense of these camouflaging measures. Wasn't it true that people were always confronted with a two-fold difficulty in this connection. On the one hand, the desire to find a way for the foreign sales organizations legally which should not make them appear as direct Farben property and, on the other hand, the necessity to convince the customers of Farben that he was getting a Farben product, because he knew that they were good, and that he should gain the impression that if he dealt with these foreign sales combines he was dealing with the efficient sales organization of Farben?

A Yes, that's correct, and in this connection, one must say that the camouflaging measures never caused the foreign customers to believe that they were now dealing with non-Farben enterprises. The camouflaging measures organizations were always recognized even by the authorities of the foreign countries as the offspring of Farben,

Q Thank you very much. I attached importance to that statement.

I have no further questions.

BY DR. VON KELLER (Defense Counsel for the defendant von Schnitzler:)

Q Witness, I have one more question. If I understood you correctly, he asked you a short while ago you knew of a Polish law which prohibited Farben's participation in a Polish enterprise and, as far as I remember, you answered that you did not know of such a law. But I should like to ask you, do you know any regulations of circumstances which might have precluded a direct participation of Farben in a Polish enterprise or which might have made it difficult for Farben?

A I don't know any such regulations. They may have existed.

Q Do you know any other circumstances which might have made a direct participation difficult so that Farben would have to carry out participation in Winnica in another way?

A No, I don't know of such circumstances.

Q I have no further questions.

THE PRESIDENT: Does that conclude the cross examination of this witness?

Has the prosecution finished with this witness?

MR. AMCHAN: No further questions, Your Honor.

THE PRESIDENT: The witness is excused. The Marshal may escort him from the box.

Call you next witness, please.

MR. SPRECHER: Since we have rather special announcement in connection with the next witness, suppose the prosecution attempts to straighten out the question before we call the witness into the room.

THE PRESIDENT: Very well.

MR. SPRECHER: The witness will be Dr. Franz Rupp. The only affidavit in question, Your Honors, is Exhibit 857, NI-6652, which may be found in Book 47, page 37 of the English page, 71 of the German; and if Your Honors have the affidavit before you the Prosecution proposes to withdraw or to strike two paragraphs, so as to make this matter clear after the fashion Your Honors indicated this morning.

Prosecution withdraws the paragraph marked paragraphs 3 and 4. In view of that, would you also like a short statement as to what we believe the affidavit stands for, or not?

THE PRESIDENT: That would be of doubtful ^{value}. No doubt a statement is in the record of what the affidavit purports to establish made at the time the affidavit was offered in evidence. It would perhaps suffice to call attention of counsel for the Defense to the fact that the Prosecution does not rely upon any of the facts stated in the paragraphs numbered 3 and 4 of this affidavit.

Now the witness may be brought in.

FRANZ RUPP, witness, took the stand and testified as follows:

THE PRESIDENT: The witness will remain standing for the purpose of being sworn, raise his right hand, say "I" and state his name.

WITNESS: I, Franz Rupp . . .

THE PRESIDENT: And now repeat after me . . . swear by God the Almighty and Omniscient that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

The witness may be seated.

The Prosecution may interrogate.

DIRECT EXAMINATION

BY MR. SPRECHER:

Q. Will you state your full name, for the record?

A. Franz Rupp.

Q. Your present address and occupation?

A. Berlin-Zehlendorf, Kuttmachauer Steig 32, editor.

Q. What was your profession before the collapse of Germany, in 1945 ?

A. I was an employee of Farben but was transferred to the Economic Group Chemical Industry and Dept. Chief in "Reich Office Chemic."

Q. What year did you transfer?

A. The beginning of 1943.

Q. Mr. Witness, do you have before you an affidavit marked NI-6652, Prosecution Exhibit 857?

A. Yes.

Q. You have discussed this affidavit with representatives of the Prosecution in the last day or two?

A. Yes.

Q. Do you have any additions or corrections that you would like to make to this affidavit at the present time?

A. No.

MR. SPRECHER: No further questions.

THE PRESIDENT: The defense may cross-examine the witness.

CROSS EXAMINATION

BY DR. BACHEN: (Counsel for Defendant Ilgner):

Q. Dr. Rupp, the affidavit mentioned just now gives rise to a few questions. Would you please tell me what sub-section of VOWI you worked in, in Berlin NW 7?

A. The general observation of foreign countries, which was consolidated temporarily with the Department for Economic research from Foreign Countries. They were not chemical questions.

Q. Please speak slowly and wait for the translation of my question; otherwise the interpreter cannot follow.

May I ask you who was your superior in the VOWI?

A. Temporarily, Dr. Platzner; when I became department chief, Dr. Reithinger.

Q. Dr. Rupp, in your affidavit you state initially that VOWI and Dr. Bannert in particular immediately after the war broke out, drew up location maps in which chemical plants in the foreign countries concerned were drawn in, and further you say; that you did not know whether Farben did this on its own initiative or whether these maps had been requested by the OKW.

In this connection, I would like to put something to you. Dr. Bannert, too, has given an affidavit which was submitted as Exhibit 850 by the Prosecution. It is Document NI-8149; in the English and German document books 47, on page 1.

Dr. Bannert says in connection with the process that you have mentioned -- and he says this under paragraph 3, on page 2, I quote:

"Also at that time we were asked for maps and pictures about industrial enterprises of the enemy foreign countries. Since we did not have this, we had to limit ourselves to making photostatic copies from rarely published drawings and photographs in different technical publications, and place these at the disposal of the military economic, and armament staff."

Dr. Rupp, do you agree with me that Dr. Bannert, who, according to your own statement, is the competent expert in this question, is the person to give the most reliable judgment about these things?

A. Yes.

Q. May I therefore stipulate that the description of Dr. Bannert's is the more correct description?

A. It is probable that it is correct.

Q. Dr. Rupp, do you know that after the war broke out a large number of these experts from VOWI were taken over by the Armament Staff of the Army?

A. Yes.

Q. Were you also part of these persons drafted for VOWI?

A. I cannot say that I belonged to these people who were drafted.

A number of people were called in for work for the OKW, and I was one

of them, but it was not a draft. I was not drafted and I never heard of any such draft.

Q. But you yourself say that you were obligated to carry out this work for OKW?

A. A number of people were officially charged with it -- and I was one of them.

Q. I ask you, Dr. Rupp, whether Farben had any possibility to defend itself against the Wehrmacht in this draft obligation?

A. I believe not.

Q. Were these people who were so charged from VOWI, among whom you also were included, not instructed to carry out the regulations and orders of OKW without Farben taking any influence in these matters?

A. Farben could not take any influence.

Q. Dr. Rupp, you say further, in the second paragraph of your affidavit, that you know that under Dr. Reithinger's supervision Farben reports on foreign countries were prepared and forwarded to the Wehrmacht. Do you know what time that was?

A. OKW got certain drafts that were already made.

Q. Pardon me, you did not understand my question. At what time were these drafts prepared and transmitted to the OKW?

A. After the war broke out.

Q. That is, after the people were obligated to work for the OKW?

A. No, that is not quite correct. Shorter drafts were worked out immediately after the war broke out and submitted to OKW and these had nothing to do with the drafting by the OKW for such work; that came later.

Q. Don't you know, Dr. Rupp, that the discussions which took place with Dr. Kreuger upon the instigation of the OKW took place already early in November 1939?

A. I don't know that. I didn't know it at the time that the VOWI made certain statistical drafts two weeks after it broke out. That was a time when I had not yet been drafted.

Q. If I may say that again, it was a time, however, at which the discussions had already taken place. You say that these reports did not only refer to the business side but also , as you discovered later they included every point of interest to the Government or the Wehrmacht.

I ask you whether this is not a matter of course since these things were part of work which was carried out by the VOWI for OKW after the war broke out?

A. No, the work on chemical questions was not drafted in my department.

Q. But, isn't it a matter of course that the work which was carried out by the request of OKW of course had to be of interest to the OKW?

A. Of course.

Q. So that your formulation is something that is self-evident?

A. Yes.

Q. Dr. Rupp, in the Indictment of this trial it is asserted that the VOWI allegedly carried out espionage activity and that, therefore, it participated in the preparation of wars of aggression. To support this assertion, the Prosecution has submitted your affidavit, among others, the affidavit that we are just now discussing. After having found out just now jointly that the drafting of plans and projects for the OKW resulted as a matter of necessity because people were obligated to carry out this work for the OKW, I ask you whether in your activity in VOWI you found out facts which might justify such an assertion of a charge of espionage, as asserted by the Prosecution?

A. In my field of activity I was not able to perceive such facts. The material which we had available was mainly generally known statistical material, publications of agencies in the countries concerned, and other material which I already had found in my former activity of market research.

Q. Thank you very much.

A. A few reports of foreign representatives about the economic situation were added, but that material also was of a general nature, referring to general economic questions and were not in any way to be termed espionage activities.

Q. Thank you.

THE PRESIDENT: Counsel, how nearly through is your cross - examination?

DR. BACHEM: Since the Prosecution withdrew paragraphs 3 and 4, I have finished..

THE PRESIDENT: Very well, the Tribunal wished to know so that we would know how to arrange our afternoon intermission.

We will rise for our afternoon recess.

THE MARSHAL: The Tribunal will be in recess for fifteen minutes.

(A Recess was taken.)

THE MARSHALL: Military Tribunal VI is now in session.

THE PRESIDENT: Are we through with the last witness? I thought there was some more cross-examination. Was the defense through with this witness?

Call another witness.

MR. SPEECHER: The prosecution calls Dr. Kurt Krueger.

KURT KRUEGER, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

The witness will remain standing, raise his right hand, say I, and state his name.

A. I, Kurt Krueger.

Q. The witness will repeat this oath after me:

I swear by God, the Almighty, the Omniscient, that I will speak the pure truth and will withhold and add nothing.

(the witness repeated the oath)

THE PRESIDENT: The witness may be seated.

MR. SPEECHER: Your Honors, may I first begin by indicating the affidavits which are before us, Exhibit 259, NI 7862, that is in Document Book 10, page 39 of the English, page 50 of the German;

Exhibit 378, which is NI 4928, which is in Document Book 14, page 109 English, page 153 German, and also in Book 46, in case you have that book, 46, English page 104, German page 123, and then two further affidavits, Exhibit 1087, which is NI 11351, in Book 53, page 58 English, page 50 German, and then in the same Document Book 53, Exhibit 1105, NI 11370, which is in Book 53, English page 115, German page 158.

THE PRESIDENT: Would you give us a moment to check and see if we have the exhibits?

MR. SPEECHER: Mr. President, if your Honors have either book 14 or book 46 with you, I think I can indicate a substantial part of one affidavit which will be withdrawn.

THE PRESIDENT: I think you had better wait until we get the

books. I have 46; you can go ahead on book 46.

MR. SPEECHER: That is Prosecution's Exhibit 378, NI 4928, and that is page 104 of Book 46 in the English, page 123 in the German.

If your Honors will turn over to the page, the mimeographed page 4 of the document, and go to the paragraph beginning above, the break in the page which says, "(paragraph 7 of the original)", you will find a sentence beginning:

"The I.G. liaison men abroad sent periodical reports", and running to the end of the affidavit, except for that part where the witness makes the usual formal statement, may be withdrawn for the reason that it is either cumulative or we think a certain amount of surplusage is contained therein.

THE PRESIDENT: That would take the remaining part of that page 4 of the mimeographed number, and all of page 4 (a), 5, 5(a), 6, 6(a), 7 and 7(a) out; is that correct?

MR. SPEECHER: Yes, Your Honor. My pages are marked a little differently, but in any event it would run down to the sentence which concludes, and which is marked page 13 of the original, with the following, "I suppose a few other technicians took part".

THE PRESIDENT: I don't get where you mean to stop.

Very well.

Now may the Tribunal inquire if the defense has in mind the parts of this affidavit that the prosecution is withdrawing? If you have any question about that, please raise the question now so that we do not be in a state of confusion when we get into the cross-examination.

MR. SPEECHER: Your Honors, Mr. Dubois has brought up one of the defense document books. This is document Book 46 in the defense book, and that runs from the middle of page 128 of the defense book, up to the end of the first partial paragraph on page 134 of the defense book.

It begins with: "Die I. G. Verbindungsmaenner".

DIRECT EXAMINATION

DR. KURT KRUEGER

BY MR. SPRECHER:

Q. Now Dr. Krueger, will you.....

THE PRESIDENT: Just a moment now.

MR. SPRECHER: Pardon me.

THE PRESIDENT: Is any part to be dropped in any of the other documents?

MR. SPRECHER: No, Mr. President.

THE PRESIDENT: Very well.

BY MR. SPRECHER:

Q. Dr. Krueger, state your full name for the record, please.

A. Kurt Krueger.

Q. And will you state your present address, please?

A. Rammholz, Schlussembaum District.

Q. What is your present occupation?

A. I have no occupation.

Q. And where were you employed prior to the German collapse in 1945?

A. The Nitrogen Syndicate was my last employer.

Q. And from what date on was that?

A. It was September 1944.

Q. And prior to September 1944, what was your position?

A. Director of the Central Finance Administration of I. G. Farben, Berlin NW 7.

Q. Did you have another position there as a deputy in Northwest 7?

A. I was deputy chief of the finance division, I. G. Farben Berlin NW 7 under Dr. Ilgenfeld.

Q. Tell us whether or not you were the Deputy Chief of NW 7 Berlin generally speaking, not only the central finance administration?

A. Yes, I was Deputy Chief of the entire Berlin organization

DIRECT EXAMINATION

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No 7.

Q. And when did you first become deputy chief in that position?

A. When I entered the central finance administration, I became deputy to Dr. Ilgner and I remained it all of the time.

Q. When did you enter there; will you give us the year, please?

A. I believe in 1928.

Q. Now do you have before you the 4 affidavits by you, in question, Prosecution Exhibit 259, 378, 1087 and 1105?

A. Yes.

Q. Have you discussed these affidavits with representatives of the prosecution in the last few days, Dr. Kruoger?

A. Yes, I have.

Q. And with respect to the first, that is Exhibit 259, NI 7862, do you have any corrections which you think are necessary at this time?

A. No.

Q. Now with respect to NI 4928, I understand that you have one or two corrections. Do those corrections fall within that part which I told you before we were going to withdraw or not?

A. No.

Q. Do they come before that part?

A. On page 4 of my affidavit, concerning my trip to Scandinavia with Dr. Ilgner and Gattinow, I stated it was in the spring of 1933. That is a mistake. It should read, "summer or fall". I cannot tell you exactly.

Q. Do you have any other corrections before the passage is withdrawn?

A. No.

Q. Do you also have Prosecution Exhibit 1087, that is Document NI 11351 concerning Deutsch-Matrei?

A. Yes.

Q. Do you have any additions or corrections to make to that?

A. No.

Q. Do you have exhibit 1104, that is NI 11370, concerning new order, and other topics?

A. No, I haven't got that.

(Copy of document handed to witness)

Q. You have a copy now?

A. Yes, I have.

Q. Are there any additions or corrections to that affidavit?

A. No.

MR. SPEECHER: I have no further questions direct.

THE PRESIDENT: The defense may cross-examine.

CROSS EXAMINATION

KURT KRUEGER

BY DR. SILCHER (counsel for the defendant von Knieriem):

Q. Dr. Krueger, in order to limit the cross-examination as far as possible, I would like to ask you only regarding your affidavit, Exhibit 378, NI 4926, on page 3 where you talk of an endeavor to follow the official line; that this endeavor was also that of the entire I.G. leadership which tried by these means to safeguard the interests of I.G. Farben, which under the new regime, in whose bad graces they were, may have thought they were threatened; you talk of the tendency to try to get it into the good graces of the new powers that be, and of the suitable means.

Now two questions. First, to safeguard the interests of I.G. Farben; what were these interests; I mean a rough outline? Was it to maintain private enterprise in Germany?

A. Yes.

Q. Did the I.G. look upon itself as one of the strongest and foremost pillars of free enterprise in Germany?

A. Yes, I believe one could put it that way.

Q. Could one call the attitude of I.G. - generally speaking -
could one say that it represented economic reason against the
pressure of the totalitarian pressure on private enterprise?

A. Absolutely.

Q. Was it the policy of Farben to maintain the position of world citizenship in Germany?

A. Yes.

Q. The position of international conciliation and peaceful and fair competition?

A. Yes.

Q. Did Farben maintain this policy during the Third Reich?

A. Yes, there was no change in that attitude.

Q. Did Farben desire war?

A. I cannot imagine that.

Q. In view of its industrial and scientific achievements, in view of its sales organizations, did Farben need a war?

A. Certainly not.

Q. In view of these conditions in its business and in view of the great importance of its export, could it use a war?

A. Certainly not.

Q. There was a certain endeavor up to a point to try and win the favor of the new powers. Did the I.G. ever identify Germany with the National Socialist regime?

A. No.

Q. You are talking of the means which might be used or the aim which I might briefly summarize to maintain under the National Socialist regime the position of private enterprise the policy of economic reason against the brute forces of a political dictatorship. In order to achieve this aim, would it have been a suitable means to maintain an open, stubborn opposition to the National Socialist regime?

A. In my view it would not have been suitable. It would probably have led to the opposite result.

Q. Would it have led as far as could be foreseen that

this position would have been lost to private enterprise and would have become a position of the political force of the regime?

A. Yes.

Q. Was it then the only means that promised any success, the attempt, as I want to formulate it, to recede, to evade, to build up a very elastic defense?

A. Yes, that is the way I saw it.

Q. Would you agree with me if I say the following, that if in such a position one has to defend, let's say 100 points of such a position, one has to lose 30 points in order to maintain the remaining 70 positions because otherwise one would have been thrown out of all the hundred positions?

A. Yes.

Q. If now the I.G. has followed this course, could one say that it was successful?

A. Up to a certain degree.

MR. SIRECHER: I won't ask that it goes out but it seems to me the question is objectionable as being thoroughly conjectural.

THE PRESIDENT: That is probably true but we waste as much time in striking it out as we would in going to another question. Ask another question.

BY DR. SILCHER:

Q. Did Farben under the Third Reich become a agency of National Socialism or did it in the nucleus maintain the position which I have shortly described heretofore?

A. The latter is the case.

Q. Did an outstanding representative of the National Socialist regime ever enter the leading circles of the I.G. Farben?

A. No fortunately this could be prevented.

Q. Now on the other hand, did Farben become the favored child of the National Socialist regime or did it remain a misbehaved child?

A. No, it never became a favorite child. Animosity continued and it only succeeded in some fields and with regard to some personalities to be respected and acknowledged. At the bottom, the animosity continued until the last days of the regime.

Q. During the war, did you not often hear from representative circles of the government and the party that the I.G. represented a foreign body, a fortress of plutocracy in the National Socialist Reich?

A. We often heard this view.

Q. Under plutocracy, did they understand what today we would call Western democracy?

A. Yes.

MR. SPRECHER: I understand the answer went in.

DR. SILCHER: Mr. President, may I make a short statement regarding this question? I believe--

THE PRESIDENT: There is no objection to it.

DR. SILCHER: Would you kindly answer this question, Dr. Krueger?

THE PRESIDENT: The question is answered, He said yes.

DR. SILCHER: I beg your pardon.

BY DR. SILCHER:

Q. Was Farben by these circles as internationalists which, by the way, was a lie?

A. Yes.

Q. Was there still a hostility against the cartel system?

A. Yes.

Q. And do you remember, Dr. Krueger, that frequently, especially during the war when it looked as if Germany

were going to win, was there talk about intention of the regime against I.G. Farben?

A. Yes.

Q. Were these intention to the effect of rewarding I.G. or was it not rather that it would be the first to be eliminated after the war?

A. Yes, the latter is true.

Q. Do you remember at least according to the meaning, do you remember these words because this edifice of I.G. is not in conformity with the National Socialist principles and with the spirit of National Socialism?

A. Those were the words used.

Q. Yes. Can we summarize the policy and guiding principles of I.G. as simply anti-totalitarian?

A. Yes.

Q. Did the view prevail and was it your view that it was likewise anti-Communist at the same time?

A. Yes.

Q. And this was thought to be two kinds of totalitarianism?

A. Yes.

THE PRESIDENT: The question may be considered unanswered if counsel for the prosecution wishes to make an objection.

MR. BRECHER: Without some foundation, at least, from Counsel, for the defendant von Knieriem, I can't see any real advance of the Communist issue being brought in here at the present time. It is a very general question; it might perfectly well have some meaning if it could be related to anything specific. I think it is clearly beyond the scope of cross-examination. I would like to have counsel's purpose, however, if he has one.

DR. STICKLER: May I make a brief explanatory statement here? Mr. President, I see the connection in this way. In the affidavit the line of the I.G. management is mentioned towards the new regime and Mr. von Knieriem belonged to the management of the I.G. and I think I am justified in putting questions regarding this subject. The prosecution has charged Farben with having entered into alliance with Hitler, to have marched shoulder-to-shoulder with National Socialism; even more, that National Socialism was only a means for Farben to realize plans for power which Farben had and now I am endeavoring, by my questions, to elicit from the witness what was the real policy of I.G. Farben. And in my view the question of the attitude of I.G. towards totalitarianism, if I may use this ghastly word, and this question belongs to the--and this comprises totalitarianism in all the forms it may appear and if I am of the view that we know of these in the forms of National Socialism and Communism, I believe that there is sufficient connection in order to put a question of this sense to the witness.

THE PRESIDENT: I think we all understand the theory of the prosecution and that has perhaps been fairly stated by counsel for the defense as he understands it. And the defense certainly is entitled to show what the policies of Farben were with respect to the Nazi regime. Now the real question is whether or not to show its attitude towards some other political system or philosophy would have any probative value. That we very much doubt and again it would probably result in us getting into a collateral inquiry and considering a lot of matters that really have no probative value here. Unless counsel for the defense can point to some specific statement in one of the affidavits under consideration, that would convince

us otherwise, we think that the inquiry is without the scope of proper cross-examination.

DR. SILCHER: No, I cannot add anything to what I have said before.

THE PRESIDENT: Then the record may show the objection sustained and the answer will be stricken out and the question need not be answered again. Counsel for the defense may propound another question to the witness.

DR. SILCHER: Then, Mr. President, I must conclude and can conclude my cross-examination because all my other questions which were only a few in number would connect with that last question.

BY DR. NATH:

Q. Dr. Nath for Dr. Ilgner. Mr. President, I consider blue pencil as a great gift which has struck five pages out of an affidavit of 12 pages. Unfortunately nine pages remain regarding which I must put questions to the witness. I may say this here in advance, in order not to tax the patience of the Court beyond due limit. Dr. Krueger, I am now talking to you about your affidavit Exhibit 378 in Document Book 46, in the English Book on page 104, HI-4928, and Dr. Krueger, you told us that according to your knowledge in 1928 you entered the Central Finance Administration of I.G. which was led by Dr. Ilgner. Did you make Dr. Ilgner's acquaintance only at that time?

A. No, I believe I made his acquaintance in 1926.

Q. You were then one of the oldest and closest associates of Dr. Ilgner?

A. Yes.

Q. And on the strength of your knowledge of the personality of my client, you, witness, chose some formulations in your affidavit which might possibly be misunderstood, you talk, on page two, of a great ambition of Dr. Ilgner's, of his extensive plans, and of his desire to play a big role in public life. These are human characteristics which may perhaps not always be considered pleasant. Is it correct that this ambition of Dr. Ilgner's was confined to the economic sphere and that it aimed at the extension and development of European economic policies?

A. Yes.

Q. And what did his plans consist of?

A. In the furtherance of international cooperation in the economic sphere.

Q. According to your knowledge of affairs, did Dr. Ilgner ever aim at a predominant position of Germany in the economic sphere?

A. One can't really say that. One could call him arrogant but in the estimate of characteristics of the German men, he certainly was not that. He appreciated the qualities of other nations and in my eyes he was anything but a nationalist. Personally, he always aimed at a predominant position but in his case this was certainly not identical with dominating position of Germany, not even with a dominating position for I.G. Farben.

Q. You said, Dr. Krueger, that Dr. Ilgner aimed at international economic cooperation. Was that his policy even before 1933? I recall to you the French-German Association which, as you will remember, endeavored to bring about an understanding between France and Germany.

A. Yes, I can recall that and the time before 1933 these endeavors of Ilgner were intensified. In 1932 he had appealed to the public repeatedly with his endeavors for international cooperation in the economic sphere and he had his own ideas and his own proposals, especially he thought of tours, meetings, of economic experts of every country. He sought to bring about a discussion of the economic problems of the different countries. People were to get to know each other and were to discuss the difficulties and to study the difficulties of their own economies and to seek the solution of these difficulties. Those were his aims during his meetings in 1932 which he tried to continue in 1933. His main aim, as far as I can see it, to establish the contact which had been missed with the new regime in order to have a platform for the continuation of his work through which he hoped to make a name for himself in the public eye.

Q. Did the Kiel meeting week, for instance give such a possibility, I would say there was one attempt among many to bring about a discussion between the various economists of the various countries.

Q. This Kiel-week, witness, was an institution which was created by Dr. Ilgner. To serve as an occasion during which men of standing in the economic field, foreigners, could get together in order to discuss these measures with German representatives?

LR. SPRINGER: Your Honor, I must beg to break into the question because it is another question that begins with a speech, and I don't think we get anywhere by that and it makes it very difficult for me later on to object to a proper question even if there is a proper question afterwards.

THE PRESIDENT: The question may not have been stated in the best form. We will sustain the objection for that reason, to permit counsel to restate his question. Perhaps he can state it more clearly or more specifically and then, Mr. Witness, do not answer it until the prosecution has a right to object to get the record straightened out.

BY DR. NATH:

Q. Witness, I will rather put this question to you this way, by putting it to you that on the occasion of the Kiel-week an invitation was extended to the leading economists of foreign countries in order to enter into discussions with the German representatives. You told me that this was an isolated case.

A. Not an isolated case.

Q. Not an isolated case. Thank you. Can you remember other incidents, other cases? For instance, Dr. Ilgner's activity in the international Chamber of Commerce?

A. Yes, I just wanted to say that. I remember that exactly. This occasion was used in order to further the same aims.

Q. I believe this is sufficient for this point. Dr. Krueger, in your affidavit, you expressed yourself quite frankly and openly about my client on page three, that in 1933 as you say, he tried to establish contact by all means with the new regime with his coat tails flying. Witness, you will remember that we have experienced this time in Germany as well do you agree with me that at that time when Hitler assumed power, many

people in Germany, people counted and hoped for an improvement of the economic conditions of Germany and that this was also the case as far as Dr. Ilgner is concerned?

A. Yes.

Q. In your affidavit, you say Dr. Ilgner wanted to be one of the "boys", wanted to be on the band wagon. Would you call that an attitude which would let Dr. Ilgner appear as a particular National Socialist who also supported the slogans on the National Socialist regime as for instance in the Jewish question and the question of the politically persecuted?

A. No, with the expression: "With banners and coattails flying" I wanted to try to depict the assiduity with which Dr. Ilgner tried to establish this contact. I mean, German economy seemed to have missed the bus and Dr. Ilgner tried to establish contact, as I said, with flying colors and coat tails, and for himself he wanted to find the necessary platform in order to continue to work on his ideas which, as could be seen universally, were certainly not, in no case, in conformity with official policy. I believe one could say, in order to use another picture, he was not on the official tracks but he used his own tracks which were in opposition towards the Party and the Party observed this and he was always suspect, especially because it could not remain hidden that he was an opponent of practical anti-Semitism not to mention idealistic aspect, because he helped many people who were persecuted on account of their race and he granted them asylum in the I. G. One cannot call it otherwise. He tried to make it clear to himself, and also to others, that they were received in order to be granted an asylum and could also be useful to I. G., but if you look upon the final result one might say there was nothing else but the creating of an asylum.

Q. Dr. Krueger, can you tell us quite briefly, give us names in this connection?

A. Yes. Von Malzan, von Erosch-Oppert, Dr. Forster.

Q. Herr Lederer?

A. Herr Lederer.

Q. Dr. Haas?

A. Dr. Haas.

Q. Dr. Draudt?

A. Dr. Draudt. Yes. The number was quite considerable, but I don't recall them at the moment.

MR. SPRECHER: Your Honor, I must object to this as being beyond the scope but I am only reminded of Goering when he testified about the help he made to individual Jews. I think it is beyond the scope

of cross examination.

DR. NATH: Your Honor, I believe I may say that Dr. Ilgner is no Herr Goering, and that if, in these affidavits, features of an individual are submitted I must have the possibility of clarifying before this Tribunal what we have to understand by expressions which the witness has used in his affidavit, if he talks of flying colors and coat tails of my client with which he tried to establish this contact with the Party, because I believe this question is, in the final outcome, of importance to the Court whether Dr. Ilgner can be thought to have cooperated with the Party, as the prosecution has charged, and, for this reason, I should like to have this question admitted.

THE PRESIDENT: Just a moment, please.

The trouble we are in is what is the proper scope of cross examination when a witness has submitted an affidavit of the character that is now before us. This affidavit contains many expressions of opinions, many conclusions with respect to the relationship of this defendant to the Nazi Party and the Nazi leaders, many suggestions of what his motives may have been with reference to his affiliations and associations with Party leaders. It's rather hard to draw any narrow line of cross examination when the testimony is so broad. It's the view of the Tribunal that, within reasonable limitations, so as not to abuse the privilege of cross examination, this inquiry is proper. As a matter of sound discretion, the Tribunal does have a responsibility to restrain it if it goes too much into detail or undertakes to get into a field that would suggest collateral issues. If counsel for the defense will not carry the inquiry too far, we think the cross examination is proper and within the scope of the affidavit. The immediate objection is overruled with those admonitions. The witness may answer the question. I think the answer is in the record and this would have to be treated as a motion to strike that out. Is that not correct? Did not the witness answer it, counsel?

BY DR. NATH:

Q. I believe, Mr. President, he has not answered the question. I was just about to put the question to him how Dr. Ilgner behaved towards people who were persecuted because of political reasons. That is not because of racial reasons, and I should be grateful if the witness would answer this question and I would not then proceed to put any questions regarding this matter.

May I ask you, Dr. Krueger, what was Dr. Ilgner's attitude towards persons, people who were persecuted for political reasons and not for racial reasons? Could you give me some examples?

A. His attitude was like the one as in racial reasons. He tried to support these people and the most interesting instance is the accommodation offered to the Ambassador von Hassel who had to leave the service because of his attitude which was not politically acceptable to the National Socialism and Dr. Ilgner took him into I. G. and gave him work, but there were also other cases. Dr. Forster, Dr. Hornsorster.

Q. Do you know, Dr. Krueger, what has happened to Ambassador von Hassel?

A. Ambassador von Hassel was executed in the course of the 20th of July.

Q. This suffices.

Dr. Krueger, you say in your affidavit the hope to influence the development of German economy favorably cannot be denied to Dr. Ilgner. Could you kindly tell me in what direction Dr. Ilgner hoped to influence the German economy in a favorable sense?

A. I want to say here that Dr. Ilgner's hope cannot be denied. I meant that the hope was not only with Dr. Ilgner, but it was quite a general hope in industrial circles that we would succeed to influence the revolutionary movement, as we could now see it, to nip it in the bud, so to speak. The valuable consequences which were seen, not only abroad but also inside Germany, to bring about national unity, social

benefits for the workers. This line of policy which the I. G. had always followed. We hoped to further these valuable aims and to do away with the morbid excesses of anti-Semitism and anti-capitalism and the anti-trust attitude of the National Socialist movement by apparently going along with them. We tried to cure the National Socialist of these attitudes and, as far as Dr. Ilgner was concerned, this was not only a hope, but it was a firm conviction and he was always firmly convinced that he would succeed in that.

Q. Do you want to say that he was an optimist?

A. He is a very great optimist.

Q. I now come to another point of the affidavit on page 4.

THE PRESIDENT: If counsel pleases, it's practically at the hour for our adjournment. Perhaps we had better save the balance of the time for an announcement of the prosecution of its plans for tomorrow.

MR. SPEECHER: We plan to go forward with witnesses and I am informed that the following are available and we will bring them in the best order we can establish by work which will be done between now and tomorrow morning. The witnesses: Mureck, Moyer-Wegelin, Emil Ehmann, Hans Bannert, Guenther Hansen. I beg your pardon, Hausen, it's misspelled here. Thank you. General Huehnerman, Gustav Schlotterer, Max Winkler.

THE PRESIDENT: Do you expect to use all of the witnesses and have them cross examined by tomorrow evening?

MR. SPEECHER: Well, possibly, in view of past performance, the prosecution is slightly optimistic, but in each case, I believe, with one or two exceptions, there is only one affidavit involved.

THE PRESIDENT: We yet have about one minute. The Tribunal would like to say that it is somewhat concerned about the amount of time that is being consumed in the cross examination of these witnesses. We are extremely anxious that we do not be misunderstood. There is no purpose or object on the part of the Tribunal to deny the

defendants the benefit of any and all cross examination that will be helpful to the Tribunal in getting the facts of the case, but, because of the character of the affidavits that are the subject of cross examination, and the number of defendants that are involved and the consequent number of counsel for the defendants, all of which are conditions beyond and outside our control, we are, nevertheless, seriously concerned over the fact that it is going to take a tremendous amount of time to cross examine some eighty or ninety possible or potential witnesses. We just wish to say this, that to any extent that counsel for the defense and the prosecution, as between the two sides or among themselves, can cooperate with the Tribunal to keep the cross examination of these witnesses within reasonable limitations that are consistent with the substantial rights of these defendants, will be very greatly appreciated by the Tribunal.

Thank you very much.

The Tribunal will now rise until 9:30 tomorrow morning.

(A recess was taken until 0930 hours, 29 October 1947)

Official Transcript of the American Military Tribunal No. VI in the matter of the United States of America against Carl Krauch, et al, defendants, sitting at Nurnberg, Germany, on 29 October 1947, 0930-1630, Justice Blake, presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal VI.

Military Tribunal No. VI is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Are the defendants present, Mr. Marshal?

THE MARSHAL: May it please Your Honors, all the defendants are present.

THE PRESIDENT: Does the Prosecution have any announcements?

MR. SPEECHER: Yes, Mr. President.

Mr. President, I have just talked to Dr. Boettcher, and apparently he was expecting another list from me concerning the affiants under Count II whereas I thought since they had already testified that Dr. Boettcher would notify me as to the Defense's wishes concerning those affiants. I think in order to be clear about the matter I might perhaps read what is my understanding of the matter, if agreeable with Your Honors.

THE PRESIDENT: Do you think it best to have that on the record, or can you and Defense Counsel handle it informally? Would you rather have it stated for the record?

MR. SPEECHER: Well, I have given the list to Dr. Boettcher. I am very anxious to have notification as soon as possible because it is difficult for us under the best of circumstances to make all the administrative arrangements.

THE PRESIDENT: Very well.

MR. SPEECHER: I will then also give Dr. Boettcher today a list concerning the first affiants so far as Count

III is concerned in addition to the five that we had already given to Dr. Boettcher, and I think that can be handled informally, too.

THE PRESIDENT: Very well. Anything else, Mr. Prosecutor, before we proceed?

MR. SPECKER: Nothing, Mr. President.

THE PRESIDENT: Does Defense Counsel have any announcements?

DR. BOETTCHER: Your Honors, during the morning session of 28 October the prosecution read into the record a statement in connection with the objection of the Defense Counsel, Dr. Drischel, against the admission of certain documents concerning alleged spoliation in Russia. As this statement apart from the falsehood objection deals in a quite general manner with one of the most important problems of this trial, namely, the question whether the conspiracy to commit war crimes and crimes against humanity is a punishable offense, the Defense would ask for the permission of the Court to state briefly their view concerning this fundamental question.

The Prosecution submit in their aforementioned statement that the commission of war crimes and crimes against humanity charged in Count II and III, were an integral part of a conspiracy to wage aggressive war, whereas, on the other hand, the Prosecution simultaneously submit that there is no charge of a conspiracy concerning war crimes and crimes against humanity as such. This way of arguing is a contradiction in itself, for the Prosecution by alleging the commission of war crimes and crimes against humanity forms an integral part of the conspiracy to wage aggressive war, achieves the result of charging a conspiracy to commit war crimes and crimes against humanity as a separate and additional offense. This, however, is

to commit acts of aggressive war."

Then follows a quotation from Article 6, of the Charter which I am now now going to read. In the Opinion it says:

"In the opinion of the Tribunal these words of Article 6 do not add a new and separate crime to those already listed. The words are designed to establish the responsibility of persons participating in a common plan. The Tribunal will, therefore, disregard the charges in Count I that the defendants conspired to commit war crimes and crimes against humanity and will consider only the common plan to prepare, initiate and wage aggressive war."

This is the end of the quotation. Here it is clarified that in the view of the International Military Tribunal with which the provisions of the statute of the IMT embodied in the Control Council Law No. 10 issued in execution of said statute are in full accord, a conspiracy to commit war crimes and crimes against humanity is no punishable offense, and, therefore, neither can be charged by taking the round-about way, of a conspiracy to commit crimes against peace.

The Defense, therefore, begs to submit that so far as the conspiracy to commit war crimes and crimes against humanity is concerned that Count V as well as paragraph 34 of Count I be dismissed as legally improper without hearing testimony on these points. We have also taken the liberty to translate into English that which we wrote yesterday. If the Tribunal permits me, I will submit one copy to the Tribunal and one copy to the Prosecution.

THE PRESIDENT: Thank you, Dr. Boettcher.

MR. DUBOIS: Very briefly I would like to say this: first, we are not charging a conspiracy to commit war crimes against peace which was not dealt with in either

the decision of the International Military Tribunal or in the decision of the joint Tribunals here. Now our position is simply this: that the program of Germany in exploiting the economic resources of Europe and in using the manpower of Europe as slave labor not only did probably the most harm to Europe, but was a real and integral part of Germany's program for waging war, and was essential for the waging of war by Germany, and that those acts constituted an integral part in the preparation for and waging of war quite irrespective of whether or not they are also war crimes and crimes against humanity.

THE PRESIDENT: I think we have your views. The Tribunal is very happy to have this statement from the Defense. Our consideration of the immediate problem with which we are confronted, that is, with respect to the competency of the evidence as relating to the Russian phase of the evidence now being submitted, led us to this question which we recognize as one of the substantial legal questions which this Tribunal must ultimately deal with. It was for that reason that we directed the attention of Counsel to Count V of the Indictment because the competency of the evidence now being considered by the Tribunal might be determined by first ascertaining whether or not Count V is sufficient in whole or in part. Because of the very serious legal question that is presented, incidentally, at least by this matter, we may not rule on the objections for another day or so because we do want the opportunity of thoroughly surveying this field, but without too much delay, we will advise you of what our conclusions are in that regard.

Did you have something to say, Mr. Sprecher, or were you talking to your co-counsel?

MR. SPRECHER: Nothing further, Mr. President.

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THE PRESIDENT: Then the Defense may continue with the cross examination of the witness on the stand.

GUSTAV KRUEGER - Resumed

CROSS EXAMINATION - Continued

DR. NATH: Dr. Nath for Dr. Ilgner.

Mr. President, I continue with a discussion of Exhibit 378 in Document Book 46, page 109 of the English text.

BY DR. NATH:

Q Dr. Krueger, in your affidavit you speak on page 4 of the contact which Dr. Ilgner tried to establish with the Ministry of Propaganda in 1939. Do you recollect that at that time the Reich Economics Minister Funk was trying to find persons from the Ministry of Propaganda who knew the world, and wasn't it Mr. Funk who approached Dr. Ilgner and asked him to enter the circle of the leaders of industry?

MR. SPRECHER: Mr. President, I must make an objection to the question as assuming a fact not only not in evidence, but in my opinion contrary to the facts. May I ask a question of Counsel, namely, does he claim that Reich Minister Funk was at that time Reich Minister of Economics, or was he at that time Reich Minister of Propaganda?

DR. NATH: Mr. President, Funk was not Minister of Propaganda, but I may be mistaken in that Funk at that time was not yet Reich Minister of Economics. I am only concerned with establishing who took the first step because in the affidavit it said that Ilgner tried to establish contact, and for that reason I ask you to admit this question.

THE PRESIDENT: The objection is overruled.

A I cannot remember that, but I believe it may have been like this: that at that time this idea originated from Funk who had been a journalist previous to that and who was interested in economic matters. I can not recall it in detail. I looked upon the whole idea of the circle of economic leaders as an abortion, and I must say that the economic leaders who were interested in this subject were more optimistic and had a different view of this matter. I looked upon it as an attempt to influence Nazi policy, to try to influence them as to the realities of economy, and the people who took part in this circle would go abroad and

would propagate the idea of the new Germany in the way they saw it and in the way they wished it to develop. They put the good sides of Nazi Germany into prominence, and they tried to minimize the bad sides, and they looked upon the poisonous teeth of Nazism as something which could be removed. On the other side was their intention when they returned to report in the Ministry of Propaganda in the circle of economic leaders about the reaction which they knew German policy had caused abroad, the reasons for the bad mood which had resulted and the disadvantage which would result for German exports. They thought that such statements would make an impression on the Ministry of Propaganda and on the Party. They made a great mistake in that the Ministry of Propaganda did not worry in the least about them. The circle of economic leaders died a gentle death one day and was dissolved. I am not quite sure what happened.

THE PRESIDENT: I think, witness, you have answered the question. Wait for another question.

DR. MATH: Mr. President, I am very grateful that it was treated in such an exhausting manner. It saves me putting quite a number of questions. We have made great progress. I have only one more question regarding this point, Mr. Witness.

BY DR. MATH:

Q Is it your view that Dr. Ilgner after returning from such a trip abroad put to the Minister of Propaganda his views and his misgivings? Do you think he had civil courage?

A One can certainly say that. He has even shown quite a lot of civil courage. He was very optimistic in those days and believed that by giving prominence to his opinion and to his political views that he would gain influence and make an impression.

Q Mr. Witness, may I refresh your memory. Do you remember that this whole circle of economic leaders was dissolved on the 30th of June, 1934?

A I cannot say that. I thought it had already died before that.

Q Thank you. May I revert to what we discussed yesterday. It is a brief question. You said that Dr. Ilgner tried to establish contact in 1933 with the new political direction in order to realize the aims which he had regarding international cooperation in the economic field and in order to find a platform for his activities. What attitude did Dr. Ilgner take in later years?

A Practically until the outbreak of war he stuck to his aims and has intensified them and has tried to find a new means for furthering these aims. The meetings which I mentioned yesterday of the International Chamber of Commerce and the Kiel Week are proofs of that. He imagined that political conflicts and their causes alone in economic difficulties could be peacefully settled by cooperation, by discussions and by over-all planning. He was almost fanatically obsessed with this idea, and he thought that he was called that he could do something in this field. I believe I know him well enough in order to be able to say that it might have been his wish dream to become a world president of an international chamber of commerce, and that for this reason he was very worried about the prospect of war. The mere thought of war frightened him because it did not fit into his conception. In fact, he was so completely guileless on this point that it was very baffling. I believe I might characterize him very well by saying that he played the tune of peace loudly in order to ignore the blares of the trumpets of war.

Q This is a very plastic comparison. I should be very grateful if you could tell us about your experiences regarding Dr. Ilgner when war did break out? Did Dr. Ilgner believe that war had broken out?

A During these decisive days shortly before the outbreak of war by mere chance because I wanted to go on leave and because I was going to Austria. I spent some time on the Wachau question.

Q Can you tell us something about this place, Wachau?

A This Wachau is a place in Austria in the Steiermark where I used to spend some time in order to recover. I could not disguise my worry about the decisive days that were coming. This made no impression

on him. I believe he offered me a bet that war would not come, anyway he offered it to others - and I believe that subsequent to our discussion I was called away and found my "call-up" papers in Berlin. He, on the other hand, went into the mountains in order to hunt, and I could only conclude that he had no idea of the true events.

Q Thank you, Dr. Krueger. May I revert to this expression of ingratiating oneself with the Nazi Government. If Dr. Ilgner was the protagonist of optimism in the managing body of the I. G. would you kindly tell me whether with him the I. G. people considered whether there were other ways in order to deal with National Socialism? I am thinking of names like Bosch, Moellendorf, etc. Was it at all possible for such an important trust to ignore National Socialism and to turn its back on it?

A I have tried to answer this question during those days, and I have often discussed this question with friends of mine. I know of the attitude which Bosch, Moellendorf, Hummel, Kalle, etc., subscribed to, that is, to turn their backs to National Socialism, but I had to see that if the majority in the management said that such an attitude would be a great risk, a risk of life to I. G. Farben, because the development was like this: everyone who on the 1st of May, 1933, had seen the sea of Swastika flags in the East or north of Berlin where workers lived who had not been forced to hoist these flags -- everyone who had seen that had to say to himself that the resistance of a couple hundred among thousands of industrialists, scientists, etc., could not bring anything about?

I was in agreement with my friends that such people would be coldly slaughtered and the Germans would have read in their papers in the headlines: The cosmopolitans, the Democracy infested friends of the Jews, the plutocrats, the capitalists, the parasites, the industrial pirates, the exploiters, -- those people had been put aside and their places taken by reliable people of the National Socialist Movement.

The fear of the commissar was very strong, as far as I.G. Farben was concerned and because of that people who did not sympathize with the movement within the I.G. did not know of any better advice than to follow the strategy of hunting with the great. Apart from the really big Nazis whom you found in big industry and big business, most industrialists of these circles were anxious to bring their enterprises into a Germany without Nazis -- or rather into a Germany which had Nazis who were tamed, - so to speak, civilized.

Q. Thank you, Dr. Krueger, for your interesting statement. I can leave this point. I now would like to ask you to discuss another point, the Karl Schurz Association. In your affidavit, on page 21, you refer to the Karl Schurz Association, and the Prosecution believes it may look upon this association as an instrument of Nazi propaganda which served to aid the preparation of war. This is in point 61 of the Indictment. Could you kindly give us your attitude of that. Dr. Ilgner, as I remember, was president of this Karl Schurz Association.

What were the tasks of the Karl Schurz Association? Can it be termed "an instrument of Nazi propaganda"?

A. I cannot recall it as such, but I have concerned myself too little with work of this kind so that I cannot recall its aims in detail. I dimly remember it as an enterprise where Americans and Germans met in peaceful discussions in order to talk about common interests and to seek for solutions of fruitful collaboration between the two nations.

Q. Dr. Krueger, if I may refresh your memory, do you remember that such a prominent man as the former president Hoover was a guest of the Karl Schurz Association? Did you ever hear that in I.G. Farben?

A. Yes, that is right. I remember that now, because I remember the likeness between Hoover and Schmitz was cited at that time.

Q. I believe I may now leave this point. Now, a few questions concerning the Economic Research Department. In your affidavit, you talk about the Economic Research Department, on page 2. May I just ask you: Was that the most important department in the Organization Berlin NW ?? Or which department was the more important department?

A. That is difficult to say. They all had their importance and their place. From my point of view I, of course, have always looked upon the Central Finance Department as the core of the business and as the most important, from the point of view of I.G. Farben.

The Economic Research Department was a luxury after all where I.G. took something on which exceeded the pure frame of business, and it wanted to make a contribution to solve questions of general interest, not only of Germany, nor the I.G., nor of the chemical industry, but all problems of world economy, and to discuss them.

Q. Thank you, very much, Dr. Krueger. You mention that originally that you had an idea of Prof. Richard von Moellendorf. Would you kindly tell us briefly who Dr. von Moellendorf was?

A. Herr von Moellendorf was a friend of Dr. Bosch, Dr. Buesscher and Dr. Schmitz, and after the war he was Under Secretary of State to the Social Democratic Minister Messel, whose associate he was in working out the idea of planned economy, which was one of his ideas.

Q. What was the idea of Herr von Moellendorf's which resulted in the Economic Research Department? And was Dr. Bosch also a party to this? May I just give your memory a little support? The National Conference Board of New York was at the idea which the gentlemen

thought in planning this department?

A. Yes, I believe I remember that trips of Bosch and Moellendorf were the starting point to create a similar institution in Germany, as was the National Conference Board. I believe it was Bosch's idea and Moellendorf's idea was to build it on a broad basis outside of the I.G. Perhaps in collaboration with the whole of the German economy.

To whom it is due that the idea changed and such an institute was built up in close connection with I.G., I cannot say in detail because I was not present at these discussions.

Q. Thank you, Dr. Krueger, that is sufficient. As long as I know what it is all about, I do not want any concrete details.

May I ask you whether the reports and the other work of the Economic Research Department were available to everyone who was interested?

A. Yes, they were available to everyone. That was the idea of it.

Q. That is to say they were also available to official agencies?

A. Yes.

Q. Dr. Krueger, just one question — No, I have stricken that out.

Another point, the Abwehr; in paragraph 5 of your affidavit you say that at the beginning of the war Major Bloch who had been a member of Admiral Canaris staff, the chief of the Abwehr had invited you personally to see him and asked you that the I.G. should leave their economic advisor, Mr. von Fluegge in Turkey, even if he had finished his work there for I.G.

May I first of all ask you: Did that not happen at the same time during which Dr. Ilgner was not present in Berlin because of illness?

A. Yes.

Q. Did you talk to Dr. Ilgner after his sick leave had been completed and he had returned to Berlin about this incident?

A. I cannot remember this question.

Q. Do you think it is possible that you were told to keep all this secret?

A. I don't believe that such a thing involved secrecy. I would not have accepted it because I was not informed as a private individual, but as a functionary of the I.G., and there I was responsible to other people ; and that is no proof that I must have informed Dr. Ilgner of this. The matter seemed to me, when Dr. Ilgner returned, unimportant because so many other important things were to be discussed. I.G. had to do nothing else than keeping quiet, to continue paying. No decision was to be taken by the I.G. It simply had to accept the order of the military authorities and only could have assumed responsibility for opposing these orders for very important reasons, which I, however, did not see.

Q. Dr. Krueger, may I put it to you: Is it known to you that Dr. von Fluegge belonged to the resistance group around Canaris, and that a motive for Dr. von Fluegge's remaining in Turkey was the result of this fact?

A. No; it later became known to me, the function or the role which was played by Fluegge.

Q. Do you remember, Dr. Krueger, that Dr. Ilgner in 1944 refused to give notice on the basis of the retainer agreement with Dr. Fluegger which you have mentioned , at a time when Dr. Fluegge was already in a concentration camp?

A. I remember that now, that there was some discussion about that, and I believe it is quite possible that this happened in the way you mentioned.

Q. Thank you. You talk about Baron von Lersner, who according to your testimony went to Turkey on orders of the OKW; apart from that you say that Baron von Lersner, during his stay in Turkey, got most of his financial means from I.G. for his subsistence in Turkey. May I ask you, Dr. Krueger: The Prosecution wants to assume that von Lersner

was in the service of I.G. and was at the same time a member of the
OKW Abwehr, whereby the financial means were provided --

MR. SPRECHER: I object to what the Prosecution wants to assume.
I think counsel can put his questions without making those arguments.

THE PRESIDENT: Well, that may be an unwarranted assumption. We
will sustain the objection. Counsel for the Defense should not try
to commit the Prosecution to what it may or may not want to assume;
just ask for the fact, Doctor, and the question will be all right.

BY DR. NATH (Counsel for Dr. Ilgner, defendant):

Q Witness, who was Baron von Lersner? What position did he occupy?

A Baron von Lersner was briefly a member of the Foreign Office. He was a member of the Peace Delegation at Versailles. He was a friend of Bosch's, and according to my assumption at that time he was a sort of an associate, a sort of an advisor to I.G. for economy and received a retainer, as you say in America. That he went to Turkey and that he had talked to Bosch about it, that at least for some time I.G. was to help him by providing foreign currency I knew. I agreed with the measure--rather, I took the idea up because I could not consent to it, that we should put in for permission to send the money because I saw the great interest of Herr von Lersner to go to Turkey in order to put his own affairs in order. We must add here that Baron von Lersner was not a "full Aryan" as far as I know.

Q Dr. Krueger, from the connection of your statements about Kugler, Lersner, I must assume that you are of the view that Baron Lersner went to Turkey in the interests of the OKW Abwehr. Is that your view?

A Yes, that is how I recall it. I only had one talk with Baron von Lersner about this, and that was right at the beginning of the war.

Q May I now put to you--Mr. President. I have here an affidavit of Baron von Lersner which I want to submit to the Court as evidence, as Exhibit No. 1, Dr. Ilgnerl. I regret that I have no English translation because our translation department only accepts books for translation--but not single documents. I shall therefore briefly quote some sentences from this document.

THE PRESIDENT: Is there objection to the exhibit?

MR. SPRECHER: I don't see the relevance of using this document at this particular time.

THE PRESIDENT: Are you familiar with it? Do you know what it is?

MR. SPRECHER: Not except from the statement of counsel, but this witness has stated that he does not refer any longer to it. If he wants to use the document merely to refresh his recollection--but in a way that may help refresh his recollection; that I have no objection to, of course.

THE PRESIDENT: That would probably be the proper procedure now. The exhibit may be marked as Exhibit No. 1 of this defendant.

Counsel may pass it to the witness, if he so desires, to refresh his recollection, and for the purposes of the cross-examination. The Tribunal would want to know more about the competency of the affidavit itself before we admit it in evidence, but it may be identified and used for the purposes of the cross-examination.
BY DR. NATH (Counsel for defendant Ilgner):

Q Dr. Krueger, would you kindly look at the beginning of this statement. Baron von Lersner states his reasons why he went to Turkey. It is the second paragraph, 7th line, where it says: "My political aim was for a long time to bring about an honest collaboration between France and Germany in order to safeguard the peace." A few lines further down, I quote: "I was supported strongly by Geheimrat Bosch in my endeavors..." and he states that Geheimrat Bosch supported his plan, that the I.G. continue to pay money to him.

Would you kindly look at the last paragraph on that page, where it says, I quote: "My work in Turkey was solely dominated by my endeavors for the re-establishment of world peace--"

THE PRESIDENT: Just a moment. We are going too rapidly. Give the interpreter time.

MR. SPRECHER: I do not like to anticipate this situation, but it seems to me that there is no possibility of what has so far been read of refreshing this witness's recollection about any particular conversation that comes into question here; reading what amounts to Defense material.

THE PRESIDENT: The Tribunal cannot agree. The affidavit, with

respect to which the witness is being cross-examined makes certain statements concerning the purported author of this affidavit, which the witness now has in his hands. If the purpose of counsel in quoting from the affidavit which the witness holds is to remind him or refresh his recollection as to the purposes of the proposed trip of this party to Turkey, it would clearly be proper--if that is the purpose. If the purpose is to get to the Tribunal the content of the affidavit, that would be improper because the affidavit would speak for itself, and at the proper time it can be offered as part of the Defense.

But if the purpose is to refresh the recollection of this witness in the course of this cross-examination, there is no objection to it. The question is not completed; we cannot rule on it until it is fully stated to the witness.

DR. NATH: Mr. President, the aim of this question is to refresh the recollection of this witness because I assume that the witness has made a mistake in his affidavit. I believe I can conclude this matter very briefly.

BY DR. NATH:

Q Dr. Krueger, I would kindly ask you to look at page 2 of this affidavit; then to look at the second paragraph. There is a statement I will put to you of Baron von Lersner, "Any kind of espionage or activity of the OKW Abwehr, Foreign Office, NSDAP or any other official agency, has never been offered to me--let alone has it been carried out by me."

If I now put this to you, do you believe then, especially as you had only one discussion with Dr. von Lersner, do you still believe that Baron von Lersner went to Turkey on orders of the OKW?

A I believe I have become the victim of a mistake. I can only explain it to myself this way. This incident took place at the same time when Mr. von Fluegge and Kuegler started their work abroad for the Abwehr, and obviously I have mixed them up in my recollection.

The idea of activity abroad of Abwehr activity was the only one that impressed itself on my memory---but that I don't remember---

Q Witness, I do not want to reproach you for anything. Please understand me correctly. That is quite understandable after so many years.

A May I state however where I see the cause for this mistake because I think it is of great value to be as precise and correct as possible in my statements. I had to assume one thing, above all, from my conversation with Herr von Lersner. That is what I.G. had to do---that is, to help him---but not to see what his activity was going to be because that apparently had nothing to do with I.G. That was quite obvious.

Q Thank you; that suffices. You mentioned the name of Dr. Kuegler just now, which you also mentioned in your affidavit. Dr. Kuegler was in Bucharest. Do you also remember that Dr. Kuegler at the time which according to your knowledge he receive special orders from the OKW that he was called up to serve with the armed forces?

A Until this moment I did not remember this fact---but I remember now; I assume that this is correct.

Q Dr. Krueger, have you heard the fact that the successor of Major Focke found it necessary, as late as the spring of 1945, in a lecture before the I.G. management in Heidelberg, to point out the necessity for supporting the OKW Abwehr by the Germany economy? That was in the middle of the war.

A Yes, I do remember that. Before that happened, Focke visited the Berlin organization, and he expressed the same desires and reproaches, and he also said that he wanted to deal with this question before the management of I.G.

Q Could you tell us whether Dr. Ilgner had any connections with the Abwehr? Did he have anything to do with it at all?

A He was the chief of the organization Berlin NW 7, to which an Abwehr office was attached, so that he had to deal with these

matters. But practically he had less to do with it than I personally, or anyone else who was constantly present in Berlin because Abwehr questions or matters were mostly a case of routine work, like, for instance, directives which had to be handed on, reports which were requested, all of a very general nature. As I said, routine work--

THE PRESIDENT: That is an answer, witness. That is a complete answer to the question.

(Dr. Nath)

Q. In order to leave this subject, one brief question. In your affidavit on page 6 you say that in principle there is nothing to be said against the collaboration between the OKW Abwehr and the I. G. foreign branches; that there was no objection raised on the part of the I.G. Management. How do you want us to understand this?

A. The principle that the I.G. was bound in duty to follow the orders of the German official agencies and to put their services at its disposal is self-evident and can not be denied; that was a principle that if one had any misgivings about the detriment to the business, one could only proceed in the individual case and could make complaints about it.

Q. Dr. Krueger in your affidavit, that a reward for this was to prevent some people in the I.G. apparatus -- you said this already and may I come to a new question. May I revert to the foreign organizations. In your affidavit on the top of page 5, you talk about the foreign organization of the party. Did you personally have any dealings with this party organization abroad, and in what connection? And what were the courses of this corporation?

A. Well, I had very much to do with this organization abroad, because it was my task as the person responsible for the procurement of foreign currency, to pay off our salesmen abroad who were not fully Aryan, whose dismissal the party organization abroad demanded, and I had to put in for their pay, as the Minister of Economics, and for some time the Economic Ministry asked me to put my arguments directly to the party organization abroad, and to try to get some understanding for what we were going to do.

Q. Is it correct if I say that the party organization abroad had the possibility to disturb the export business of I.G. very considerably by raising objections with the Ministry of Economics, and that for this reason it seemed advisable to be on a good footing with the party organization abroad.

A. Yes.

Q. Is it known to you that the party organization abroad criticized I.G. representatives abroad?

A. Yes, one would almost say constantly.

Q. May I then ask a summarized question about the whole affidavit? Do I understand you correctly, if I say it was Dr. Ilgner's attitude of his work to bring his influence to bear abroad, that a sane and reasonable economic corporation was to become possible, and that Germany was to have friendly relations with the neighboring countries; this was in the interest of the biggest German exporter --

THE PRESIDENT: If counsel please, haven't you pretty well covered that subject? In your cross-examination you have gone into considerable detail in having the witness define what he conceives the attitude of Dr. Ilgner to be, and I am sure that the Tribunal has the testimony in mind. We hardly think any summarization of it would be necessary under the circumstances.

DR. MATH: Mr. President, I will certainly follow your request, and I withdraw the question.

Q. This is a second affidavit of Dr. Krueger's which I want to discuss with him briefly. This is in Volume 53, Exhibit 1105, it is page 58 of the English book.

A. Yes.

Q. Dr. Krueger have you got this affidavit, - this document?

A. Yes.

Q. In your affidavit, on page 2, you talk of the chemical industry which was to be amalgamated with the Austrian enterprise, which you looked upon by Dr. Ilgner as his hobby-horse. I say as to the date, is it correct that Dr. Ilgner in the period between August, 1932, and May, 1938, was not in Austria for a single time, with the exception of a transit trip through Vienna on his return journey from Budapest, a journey where you accompanied him; is that correct?

A. I don't know that. I remember my trip with him, but I cannot say whether in the intervening time he had not been in Austria.

Q. Would you kindly describe in detail the hobby-horse which you have mentioned? Is it correct if I say that it was Dr. Ilgner's intention to look upon the southeastern area as the natural economic partner of Germany, and to bring about economic connection with the southeastern area?

A. Yes, he was very much taken by this idea and he propagated it at all times.

Q. In your affidavit you also talk of Deutsch Katrei, the Austrian Dynamit-Nobel Aktiengesellschaft. This had been owned by the Trust for many years, as you call it. Dr. Krueger, is it known to you that the amalgamation of the Austrian property of the Trust with the Skoda-Wetzler works, was already planned in 1927, that is, one year after the I.G. agreement with the Nobel concern; that this question was discussed at that time, and that at that time already a delegation of the I.G. consisting of Professor Duden, Dr. Pistor and Dr. Kuehne conducted negotiations in Vienna, at which the Messrs. Rosenbaum and Philipp of the Dynamit-Nobel were present as well as the general manager Pollak of the Skoda-Wetzler works and Dr. Roth of the Anilinchemie.

A. I don't believe that even if I tried I could remember this, but I know that some time later, from '31 onwards, the endeavors of Dr. Roth and Dr. Pollak aimed at the I.G. taking interest in Skoda-wetzler.

I myself, prior to 1938 have repeatedly taken part in discussions following this line of thought, because I saw in the idea of Roth and Pollak a very suitable starting point for taking root in Austria, so far as the I.G. was concerned.

Q.- Dr. Krueger, a colleague of mine points out a mistranslation. May I ask you again, is it correct that you mentioned the year 1931 for these works?

A.- I said after 1931, because I only made Dr. Roth's acquaintance in 1931.

Q.- OK. Is it known to you in this connection that Wilhelm Roth was a Jewish employee of the I.G. in Austria, and represented the I.G. in Austria even before 1933; and offered I.G. the whole share of capital of Skoda-Wetzler, and that it was —

A.- I don't remember this quite completely, but I believe that it is possible.

MR. SPRECKER: I object on two grounds. It is obvious that the witness has a very remote knowledge of the particular matters in question from the way he is answering and secondly, it is clearly beyond the scope of cross-examination.

THE PRESIDENT: As to the witness' knowledge he can answer for himself, and he has said that he does not remember, and that disposes of the matter, and if it is outside of the cross-examination, no harm is done. Counsel may go on.

BY DR. NATH:

Q.- May I then, Dr. Krueger, ask you in consideration of what you have said about the previous endeavors, that the expression in your affidavit which you have chosen as a title, which is a new order, — that is what you say, — I believe that it is a somewhat unhappy expression. It is a matter which has continued between the I.G. and the firms in question for sometime; do you think you would agree with me?

A.- I have not chosen this word, "Neuordnung", — that is new order — as a title, but rather as a reference, and for that reason it is put in quotes.

Q.- Thank you. Now the prosecution, some time ago, expressed the

theory that a crime against humanity would be committed, in that the Jewish employees of the company had to leave their jobs when I.G. acquired the Austrian business. Dr. Krueger did I.G. or Dr. Ilgner have any influence on the fact that these Jews had to give up their jobs or was this a consequence of the racial laws issued by the National Socialist Government?

A.- I can only answer generally, because I am not accurately informed regard this case, or how this matter was settled, but generally speaking, it is well-known that I.G. never took the initiative to dismiss its valuable Jewish representatives abroad but that only after a long time, and after long hesitation, it gave way to the pressure of the party, especially of the party organization abroad.

Q.- Do I understand you correctly that you say it was a policy of I.G. which also came into play in the acquisition of these Austrian firms in your view?

A.- I would be very much surprised if this general line of policy would have been deviated from in this connection.

Q.- Witness, the concluding question. Did you at any time ever receive the impression that in the acquisition of the Skoda-Wetzler works, or Deutsch-Matrei, or Austrian Dynamit-Nobel, A.G. or at the foundation of the Donauchemie, something happened which one could term "spoliation" —

THE PRESIDENT: Please let counsel complete his question. We will be glad to strike the answer out if it deprives you of your objection. Go ahead and complete your question.

BY DR. NATH:

Q.- May I conclude this question? In other words, witness, is it a fact that the negotiations, according to your knowledge, took place in the manner which is usual among business men?

MR. SPRECHER: An objection is made, as calling for a conclusion before this court, that is not for this witness.

It is certainly not shown that this witness was present during those negotiations.

THE PRESIDENT: We have listened to a day and a half of a good many conclusions, opinions and surmises, and not only in the cross-examination, and the objection that it calls for a conclusion comes too late in the examination of this witness.

The objection is overruled.

BY DR. NATH:

Q.- May I ask you, Dr. Krueger, to answer this question?

A.- Exactly in the case of the Skoda-Wetzler works. I was not aware that these were incidents which were in any way incorrect or immoral, because in what happened after the Anschluss in 1938, I saw a continuation of endeavors which had been initiated by the other side, and which had been constantly carried on; or perhaps it seems a bit strange to me, the way this has been put to me during my examination, when the acquisition was dealt with before 1938, to our surprise, in contrast to what Roth and Pollak told us, at least, that is how I remember it, - the Kreditanstalt told us, "We certainly won't give you 51 per cent; we want to retain our majority". And I believe I remember quite certainly that it was also due to my influence, that the I.G. did not drop the transaction by this attitude of the Austrian Kreditanstalt, because I succeeded to press forward a view frequently expressed by Ilgner that it would not be advisable in foreign countries in the case of the collaboration of German enterprises especially the I.G. with other foreign enterprises; it would not be advisable to have a majority for I.G. It was rather advisable to have a national majority because that would be much safer, because a lot of official decrees had already been issued, and the national interests had to be safeguarded. This principle was already in effect for the purpose of inducing collaboration, that is for the collaboration of I.G. with the primary industries of the agrarian

countries, which were with the help of I.G. and other German industries to be developed in order to raise the purchasing power and the economy of those countries. Especially for Austria this was true, and the majority of the Austrian Kreditanstalt seemed to welcome it because it was Austria that was concerned at the very moment, so far as I remember, - when the Anschluss took place, between Austria and Germany.

THE PRESIDENT: That is an answer to the question.

DR. MATH: I believe, Dr. Krueger that I can conclude my questions. I have no further questions.

THE PRESIDENT: Is there to be further cross-examination of this witness on behalf of the defense?

(Indicated by defense counsel there was further cross-examination).

THE PRESIDENT: In that event, we will take our morning recess at this time so that you may start on the next cross-examination after the recess.

THE MARSHAL: The Court will recess for fifteen minutes.

(In recess for 15 minutes.)

THE MARSHAL: Military Tribunal Number VI is again in session.

THE PRESIDENT: Counsel, may we suggest that you refrain, as far as possible, from going over matters that have already been covered by the previous cross examination.

We have another suggestion that we think might be very helpful to the Tribunal and that is, as far as it is practicable for you to do so, will you suggest in the course of your cross examination, from time to time, the specific parts of the particular exhibit about which you are inquiring. We can follow the cross examination much better and it is much easier for the President to rule on objections if we know directly to what part of the particular document you are directing your cross examination, and that suggestion goes for any other of defense counsel that may cross examine this witness or any other witness of this type and character.

BY DR. TUERK (assistant of Dr. Berndt, Defense Counsel for defendant Mann):

Q Very well, your Honor.

I have a few questions on the affidavit, Document NI 782, Exhibit 259, in the English Document Book 10, page 39, and the German book 10, on page 50.

Dr. Krueger, do you have this affidavit?

A 378?

Q No. 259. Exhibit 259.

A Yes, I have it.

Q Would you please look at page 4. There, in connection with the emergency warehouses, you mention that the head of the Sales Combines Pharmaceutica, Mr. Mann - that's my client - made reports to the commercial committee on measures taken by him in connection with the M-question. Do you mean to say that such camps were established before the war?

A No.

Q Do you remember that during the war these emergency warehouses

for drugs were set up because of air raids?

A Yes, I heard about it.

Q Was the purpose of this measure to safeguard the vital supply of drugs for the population?

A Yes.

Q In drawing up your affidavit, were you thinking of such emergency warehouses and of that purpose?

A No. I was thinking, in quite general terms, that at the time one had to consider what measures were to be taken in the event of war and, of course, safeguarding the stocks from air raids and other dangers was one of the considerations which, as far as I can recall, was only discussed briefly in this first meeting of the commercial committee.

Q You cannot remember any exact facts?

A No. I said "possibly" because I considered it possible within the framework of the whole picture.

Q Thank you. I have no further questions.

BY DR. ASCHENAUER (defense counsel for defendant Gattineau):

Q The subject of the examination will be Exhibit 378, NI 4928, Book 46.

Witness, in Exhibit 378, you say that the individual plants managements tried to select liaison men to the new government and Party agencies who could establish new contacts on the basis of their previous contacts. In Frankfurt, Dr. Stein took this role, who was an old Party member. In Berlin, it was Dr. Heinrich Gattineau who had connections with the SA and was a member of the SA. You do not mean to say, do you, that before 1933, Dr. Gattineau was a member of the SA?

A No.

Q How long did Dr. Gattineau remain in the SA?

A I believe until the 30th of June 1934.

Q What happened then?

A Gattineau was arrested in connection with the Roehm Putsch and I believe that after that he was no longer in the SA.

Q Witness, you write "Requests of Party Agencies which Dr. Gattineau took to the I.G.". For the sake of clarification, I would like to ask you, "By request of Party agencies" you must mean from the SA from 1933 to 1934?

A Yes.

Q Witness, what do you mean "house acquisition in connection with the Brown House"?

A I mean a transaction. This was the acquisition of a house in Munich. As far as I know, it was in connection with the Brown House or attached to the Brown House in some way. I do not remember anything concrete in this connection.

Q Who was the owner of this house?

A I do not know. I do not remember. I merely cited that as an example here in connection with requests which he brought to the I.G., but I don't know what the details were.

Q Thank you. Then you spoke of press interviews. Do you remember any case where Dr. Gattineau gave a press interview?

A No. Where do I mention press interviews?

Q In connection with Dr. Ilgner.

A Yes. I heard that press interviews were given when Gattineau took part in the trip and I assume that he, as well as Ilgner, was present.

Q But you know nothing concrete?

A I was not present. I cannot say.

Q Then, witness, you spoke about connection with the AO, the foreign organizations. Was not Kommerzienrat Waibel of the commercial committee supposed to establish this connection with the AO?

A Yes.

Q Thank you.

Now I come to Exhibit 259, in Book 10.

Witness, in your affidavit exhibit 259, you say that WIPO had the assignment from the Reich Ministry of Economics to work on the M-question (mobilization question) and passed it on to the TEA and the commercial

committee. Witness, did not the Vermittlungsstelle W have a direct contact with the competent authorities and with the Reich Ministry of Economics, among others?

A Yes.

Q Then the question of passing on the wishes of the Reich Ministry of Economics must refer only to the commercial committee?

A Not necessarily. Commercial questions or questions which were not purely technical, personnel questions in regard to mobilization, were discussed at that time, and if I remember correctly, these suggestions of the authorities as far as they effected personnel of the technical side, that is, plants, were sent on to the TEA office and were divided from the matters which were dealt with in the WIPO, but I don't remember these things quite exactly any longer.

Q The WIPO had only a mediating function?

A Yes.

Q Witness you say, later under point M, in the KA, commercial questions were also discussed, that was probably from 1939 on?

A I do not know the date, but that might be right.

Q What does WIPO mean?

A Economic Political Section - the abbreviation.

Q. Do you know when a Defense Economy Department was created?
Was that in 1939 or earlier?

A. Where?

Q. Within the WIPO?

A. I cannot say.

Q. What significance did the WIPO have? Could it act independently, or did it have an auxiliary function for the sales combines, especially in the field of duty and trade?

A. The latter. It was to a great extent subject to the instructions of the sales combines.

Q. The WIPO had no political duties?

A. No. We called them economic political duties.

Q. Who was the head of the WIPO from 1932 to the end of 1938?

A. Dr. Gattineau.

Q. From the end of 1938 on?

A. Dr. Terhaar.

Q. Did the WIPO have the assignment to make reports, or was that the duty of the VOWI?

A. Of course, the WIPO did make reports on its activities, on its duties and on certain subjects which were handled there, but you mean the reports which were issued outside of the I.G. That was done only by the VOWI.

Q. Witness, was it not so that the sales combines handled their department questions themselves and made their personnel plans for the event of mobilization themselves, and used the WIPO only to obtain information?

A. Yes, that is how I remember it.

Q. Witness, can you recall when the WIPO was founded? To refresh your memory may I draw to your attention a decision of September, 1932, which says the KA also the creation of an economic political department under Dr. Gattineau where the press office was under Dr. Brettnor, the

economic political office, Dr. Albers and the trade political office are drawn together.

A. That answers the question of its creation. I had no concrete recollection. I was often asked about that, but I could only say that I assumed that it was about 1933.

Q. That shows that the creation of the WIPO had no connection with the seizure of power by the Nazis?

A. No; but as I have said in my testimony after the seizure of power by the Nazi, when planned economy was introduced more and more, it gained greater importance and grew beyond its original aim.

Q. Why I put to you the following: When international trade became more complicated, when business was rationed and the Government authorities in Berlin were increased, in the years 1931 to 1932 the necessity arose in the commercial sector to have an office which would help the sales combines in dealing with the authorities. Those were the basic considerations out of which the WIPO was created?

A. Yes.

Q. Then, witness, did the WIPO ever have anything to do with technical production questions?

A. Never as far as I know.

Q. Then, witness, up to the end of 1938 did the WIPO have the assignment to establish contact with military agencies?

A. I do not remember that concretely.

Q. Do you know that Dr. Gattineau, head of the WIPO and up to the outbreak of war was not deferred?

A. Yes, I believe that is true. He had been a soldier and his deferment was later the subject of deliberation. Yes, that must be right.

Q. Then witness, do you agree with me if I say that the part of the costs of the WIPO in the total costs of Berlin NW/7 in the years 1932 to 1945 were about ten percent?

A. I cannot say. I consider it possible; this amount is little, but

I believe the other departments, especially the VOWI, bore a large part of the costs, and also, of course, the Central Finance Office.

Q. Is it true that the head of the WIPO from '32 to the middle of 1938 was only a procurist, and in the middle of 1938 only received the title of director?

A. That is probable right. That is, it must be right that it was at that time. I don't know the date exactly, but, at any rate, he was a procurist for a long time.

Q. Is it correct that Gattineau as long as he was in charge of the WIPO did not belong to any of the I. G. committees?

A. I don't remember that so clearly that I can answer that with "yes" or "no", but I consider it possible. I consider it unlikely that he belonged; I don't remember though.

Q. In the hierarchy of MW/7 Ilgnor, Fischer and Frank-Fahle were above Dr. Gattineau, were they not?

A. Yes.

Q. Then I come to Exhibit 1105, Book 53. In your affidavit, Exhibit 1105, you say that the A. G. Dynamit Nobel, Pressburg, which belonged 51 percent to Dynamit Nobel, Troisdorf, was dependent on the Czech Government at every transaction affecting foreign countries. Is that not so in most countries of the world that transactions of foreign property of firms required the approval of the government?

A. I believe that is the case in all European countries which have more or less controlled economy and a regulation of foreign currency.

Q. You do not mean to say that the Czech Government has any share in Dynamit Nobel, Pressburg?

A. No.

W. Do you know that Dr. Gattineau at first had only the assignment of helping to see to it in Vienna that the commissars appointed by the State Commissariat for the I. G. concerns were withdrawn?

A. Yes.

Q. Do you know that Dr. Gattineau from Christmas, 1937, to the middle of April, 1938, was on a trip in South Africa?

A. I don't remember the dates exactly, but I know about this trip.

Q. Who had to negotiate for the KA in Vienna?

A. I don't understand. I don't understand your question.

Q. Who had the assignment to negotiate in Vienna?

A. Dr. Ilgner. Perhaps Dr. Kuchno, Dr. Fischer. Those are the names I remember.

Q. Thank you. You say Dr. Gattineau seemed especially suitable for negotiations because of his Party connections? Is it true that Dr. Gattineau before 1933 in his capacity as head of the press office of the I. G. had contacts with the press and with political personalities of all parties and had to have such connections in order to perform his duties.

A. Yes.

Q. What Party connections did Dr. Gattineau have in Vienna?

A. I cannot say exactly. I remember only that he had old connections, knew some of the people connected with industry personally, a man named Bilgeri. I don't know whether I have the right man. I just remember that name from other connections.

Q. May I ask you do you know that Dr. Gattineau knew Bilgeri from the time when they were studying in Linz?

A. No, I do not know that.

Q. Who negotiated with the Pester Hungarian Commercial Bank about the acquisition of the minority of Dynamit Nobel, Pressburg?

A. I do not remember exactly. Perhaps you can refresh my memory. I believe that I myself at one time had an assignment when I was in Budapest for other reasons to discuss this matter with Philipp Weiss and some other gentlemen, but I do not remember exactly my specific assignment and what the discussions were about.

Q. Then perhaps you can answer my final question. Why did the

negotiations fail? Was it not so that Dr. Paul Moeller, the general director of Dynamit Nobel, Troisdorf, that is, the mother company, wanted to keep the Hungarian partners in DAG, Prossburg, and, therefore, was not interested in acquiring stock?

MR. SPRESHER: I think this is beyond the scope of the affidavit talking about the Hungarian partner.

THE PRESIDENT: How does Counsel for the defendant justify this question?

MR. ASCHENAUER: That refers to the affidavit, NI-11370, paragraph 2. From the various cross-relations of the various companies I derived this question.

He mentioned here Dynamit Nobel, A. G., Pressburg. It is nothing except a question of clarification of this affidavit. This affidavit brings up this subject.

THE PRESIDENT: The objection is overruled.

A. I believe that it is true that Mr. Maeller, DAG, Troisdorf, wanted to keep the partnership of the Hungarians in Pressburg because he was always on good terms with them in his business transactions, and he was a little suspicious of innovations and, therefore, it is quite likely that he objected or advised against this project and that the purchase of the minority of the shares was dropped. But I have no concrete recollection of this subject.

DR. ASCHENAUER: Thank you. No further questions.

DR. von METZLER: von Metzler for the defendant Haefliger.

CROSS EXAMINATION

BY DR. von METZLER:

Q. I have only two very brief questions to you, Dr. Krueger. They refer to your affidavit, Exhibit 378, Book 53, English, page 115, German, page 158. Witness; among other things you speak of the connection which the I. G. had with the Wehrmacht and you speak of the collaboration of the sales personnel of the I. G., and you say and I quote---

DR. VON METZLER: I beg your pardon, Mr. President; By mistake I got the wrong affidavit here.

Q. It is a different affidavit, witness.

MR. SPENCER: Mr. President, you have it in two books. It is Exhibit 378 in either book 46 or 14. It is a long affidavit that has been referred to before.

BY DR. VON METZLER:

Q. Witness, will you please look at that Exhibit 378. That is in the English book 14, 109, page 153 and following in the German. On page 7 of the affidavit, that is, page 159 in the German --

THE PRESIDENT: Counsel, you may just ---

DR. VON METZLER: I beg your pardon. I have just noticed which one could not see from the German document book that these pages have been crossed out in the English book, so that my questions are unnecessary. I beg your pardon for taking up your time unnecessarily.

THE PRESIDENT: We understand the situation, The striking out of the parts of the affidavit under the circumstances is calculated to be confusing.

DR. HOFFMANN: Hoffmann for the defendant von der Heyde.

Dr. President, I shall deal, first of all, with affidavit NI-4928,
Book 46.

CROSS EXAMINATION

BY DR. HOPE LAMM:

Q. Dr. Krueger, from your examination I have gathered that you are in a position to testify concerning ME/7 as a whole because of your previous position, is that correct?

A. Yes, in general; not in detail

Q. But in general?

A. Yes.

Q. Dr. Krueger, I did not know the term WIPO formerly, and I now have the following picture of the WIPO. According to what I have gathered from your affidavit, the WIPO was the liaison office between the sales combines of I. G. in various cities in the Reich and the government authorities in Berlin, especially the Ministry of Economics, is that correct?

A. Yes that is correct.

Q. How is it correct that the WIPO was divided into spheres of work in the same way that the sales combines were divided and that there was a man in charge of each specialized field?

A. Yes, that is true.

Q. How was my client, Mr. von der Heyde, one of these experts?

A. I believe he was in charge of agriculture. At least he replaced

a predecessor in this function.

Q. Do you know when von der Heyde went to Berlin as an agricultural expert?

A. No, I do not remember that exactly.

Q. Could it have been in 1936?

A. Yes. I thought it was later.

Q. Do you know who von der Heyde's predecessor was?

A. I can't remember the name. Gor-----

Q. Dr. Gehrman?

A. Yes, He went to Ludwigshafen. I believe so.

Q. Dr. Krueger do you know whether Mr. von der Heyde before he was appointed to Berlin had been an employee of the I. G.?

A. As far as I remember, he came from Ludwigshafen.

Q. Would it be true if I tell you that before he was appointed to Berlin he had worked for the I. G. in Ludwigshafen for ten years?

A. I consider that quite possible.

Q. How Mr. von der Heyde came to Berlin in 1936. Was the position he held an especially high position?

A. No.

Q. Was it a position like that of any other employee?

A. He was a rather high employee since he was in charge of a part of the field of this economic policy department.

Q. But he did not have any authority to sign for the company and was not a procurist?

A. No.

MR. SPRECHER: Excuse me, Mr. President, it seems to me that this is highly cumulative as to whether or not this man was a Handlungsbevoll-maechtiger, that is had power of attorney or the other matters and in the statement that he has made and in the affidavits we have made we often contested that particular point; and the witness has not gone into that point in his affidavit whatsoever, and I think in the interest of an

orderly trial I must object.

DR. HOFFMANN: Mr. President, may I say the following in that respect. The witness, Krueger, can give us considerable information on the position of the defendant von der Heyde. I believe it would shorten the proceedings very much if I ask these questions now instead of having to call the witness again later for the Defense and ask the same questions.

THE PRESIDENT: That is a dangerous practice. If we start permitting Counsel to get beyond the scope of cross examination and anticipating matters of defense, then there is no place practically to draw the line, and we would find, I dare say, in many instances where Counsel would like very much to make the witness his own and ask matters beyond the scope of the cross examination. If we do that, it is quite apparent that we will get very much confused, because under those circumstances, then the Prosecution would be entitled to cross examine its own witness. I think we had better stick to the formula, and the objection will have to be sustained upon the ground that as presently advised, the Tribunal does not see that this is cross examination of anything contained in the affidavit. If you will pardon this suggestion, and this witness while he is here and presently available and can furnish some information that you would like to have in your case in chief, perhaps you can get an affidavit from him and have it ready when you get into your defense. That would certainly be in the interest of orderly procedure, and the objection will be sustained on that ground.

BY DR. HOFFMANN:

Q. Witness, in your affidavit, HI-7862 on page 2 following, you describe the releasing of sales personnel of the I. G. from drafting by the Wehrmacht in case of possible mobilization. Who was the first man in charge of this field for HI/7?

A. I do not remember at the moment. Perhaps you can refresh my memory. It might have been Dr. Noack.

Q. It was Dr. Noack, but you can't remember exactly?

A. Yes, yes. I believe so.

Q. And Mr. von der Heyde took over this field later?

A. Yes.

Q. Then in your opinion or your recollection he had the same function in this field as Dr. Hoack?

A. Yes.

Q. Do you know, witness, whether Mr. von der Heyde took any steps to have you deferred from the Wehrmacht?

A. It was done -- or rather when it was done, he must have done it.

Q. Then he had to do this for all people who were needed by III/7?

A. Yes, of course.

Q. Witness, in your affidavit, NI-7862, Nos. 4 to 8, you discuss the treatment of deferments of commercial personnel in the Commercial Committee under the name "M-Question". Was Mr. von der Heyde a member of the Commercial Committee?

A. No.

Q Then he was merely called into these meetings when deferments were discussed, as an expert is called in whenever one wants an explanation from him?

A Yes.

Q He had nothing else to do with the Commercial Committee?

A No.

Q Now, in the minutes of the Commercial Committee, Mr. von der Heyde is mentioned, and the remark that he was present part of the time. Can you say definitely that this referred only to his reports on questions of deferments?

A Yes, I believe I can say so.

Q Do you know that these deferment questions were discussed in the beginning in the meetings of the Commercial Committee, and Mr. von der Heyde left the Committee then?

A Yes, that was the practice.

Q Witness, on page 3 of your affidavit, I quote: You say, "The circumstance that we were unable to imagine what friendly-enemy situation we would have to reckon with for mobilization seemed to us to make special precautions impossible or without object, for instance, those maintaining the foreign assets. We reported in this sense to the Commercial Committee."

Can one conclude from this that as a member of the Commercial Committee in 1938-39, for example, you had no idea of how these cases were to be in practice?

A Yes, we were completely in the dark. That is why we could not make any plans.

Q You were not of the opinion that there was any definite aggressive intention anywhere?

A No.

Q Witness, in your affidavit, NI-5928, Book 46, you speak of the connection with the Abwehr Department of the OKW. You mention, in addition to Frank-Fahle, my client, Mr. von der Heyde, as an Abwehr

delegate of NW-7. Is it true that the appointment of an Abwehr delegate was an official matter done by the Government?

A Yes.

Q Was there any payment for this work?

A No.

Q If the Wehrmacht appointed an Abwehr delegate for a plant, could one evade this decision?

A No; only if there were some important reasons against it.

Q Could you tell me what such reasons might have been?

A I can imagine that they might have been of a personal nature; lack of time—but that would have been possible only if one could have made it plausible, that someone else might have been more suitable for this purpose or might have more time available.

Q You, for example, would have refused such a position, saying that you had no time for it?

A I did not face this question. It probably would have been like that. It did not involve a great deal more work, but I actually did not have the time.

Q But one would have had to explain this rather in detail and prove it. Do you believe that Mr. von der Heyde could have given such proof?

A No.

Q Then he had to accept the position?

A Yes, I should think so.

Q Is it true, Dr. Krueger, that the Wehrmacht in the selection of its Abwehr delegates liked to pick men who were Reserve Officers?

A Yes.

Q Do you know whether Mr. von der Heyde, in the years 1937-38 was a Reserve Officer?

A I cannot say exactly. I would assume so because, afterwards, he was taken into the army as an officer.

Q Was that all the more reason for having to accept such a post, because, as a Reserve Officer, one belonged to the army?

A Yes, one could say so.

Q Were you a Reserve Officer?

A Yes--

MR. SPRECHER: Mr. President, it is rather difficult to know how this can be in connection with cross-examination. I would appreciate it if it could be brought out a little more clearly; perhaps I would not have to object. But under the circumstances I cannot see the relation.

THE PRESIDENT: The last question, in the judgment of the Tribunal, was definitely proper. Some of the preceding questions may have been subject to objection, but they are by us now, and unless counsel for the Defense intends to pursue that feature of his inquiry further we would save time by just going along.

BY DR. HOFFMANN (Counsel for Defendant von der Heyde):

Q Witness, I should like to ask you again, briefly: As a Reserve Officer of the Wehrmacht, would you be punished if you refused to accept the position as Abwehr delegate?

A I cannot judge that.

Q Witness, NI-7493, Exhibit 860, in Book 47, contains a discussion of von der Heyde in the Defense Economy and Armament Staff, in the year 1939, 26 August; and it says: "That the activity of the plant director of I.G. --" That is a document which was offered in evidence and on which I would like to put some questions to the witness.

THE PRESIDENT: Propound your question. We cannot tell whether it is proper or not until we hear it.

BY DR. HOFFMANN:

Q Witness, I will put the question directly. Is it correct that Mr. von der Heyde had a discussion in the Defense Economy and Armament Staff to claim you for NW-7? Can you recall that?

A No, not concretely. In the year 1941 I was requested after I was in the Wehrwirtschaftsstab for two years, but I did not do any work there, in practice, but in my function as deputy plant chief of Berlin

NW-7 I was able to continue my work after I was appointed liaison man to the I.G. Wehrwirtschaftsstab. As far as I recall, a deferment was necessary only when I had to leave the Wehrwirtschaftsstab because the staff was reduced and there was the danger that I would be put into other military service.

MR. SPRECHER: I move to have it all stricken out as unresponsive.

THE PRESIDENT: Well, it might bear something on the credibility of the witness. Objection is overruled.

BY DR. HOFFMANN:

Q Witness, you recall that yesterday I asked you about an affidavit which I wanted to put to Dr. Noack, who was a witness yesterday?

A Yes.

Q Today I should like to ask you something about this testimony of Dr. Noack's. In an affidavit, Dr. Noack said that the relatively high position of Mr. von der Heyde in NW 7, as he heard, was connected with his functions in taking over plants in Austria and Czechoslovakia--

MR. SPRECHER: I object.

THE PRESIDENT: That will be sustained. You cannot use this witness to cross-examine with reference to the affidavit of Dr. Noack and the testimony that he gave relative to his affidavit. This inquiry must necessarily be limited to the cross-examination of the affiant's affidavit. Objection sustained.

DR. HOFFMANN: Mr. President, when I made the objection yesterday I understood that I could respond to the testimony of Dr. Noack.

THE PRESIDENT: Certainly, you may, but you are cross-examining this witness. You cannot use this witness as a Defense witness at this time to counteract the affidavit of Dr. Noack. If you wish to use the testimony of this witness to answer the affidavit of Dr. Noack, you will have to content yourself to wait until we get into the Defense.

BY DR. HOFFMANN:

Q Then I will ask you, Dr. Krueger: Did Mr. von der Heyde have anything to do with an alleged acquisition of plants in Austria and

Czechoslovakia for I.G. Farben?

A I know nothing about it.

MR. SPEECHER: I would like to ask counsel what connection he thinks it has and just if it isn't another means of getting at the same thing that he just mentioned.

DR. HOFFMANN: Mr. President, I am referring to the affidavit of the witness, NI-11370, No. 2.

THE PRESIDENT: What is the exhibit number, please?

DR. HOFFMANN: Eleven-zero-five, Mr. President.

THE PRESIDENT: What does the affidavit say? You can quote it or tell us what it says.

DR. HOFFMANN: The affidavit says that I.G. acquired the Austrian Dynamit Nobel A.G. and Deutsch Matrei, and if the defendant von der Heyde had anything to do with this transaction the witness Krueger must know it as his direct superior.

THE PRESIDENT: The objection is overruled. The inquiry is proper.
BY DR. HOFFMANN:

Q Will you please answer my question, witness?

A I do not know that Mr. von der Heyde had anything to do with any of these transactions.

Q Would you have had to know about it?

A I believe so, but at that time I did not have much to do with such questions; but, as far as I recall, I never heard the name von der Heyde in such a connection, or saw him in such work.

THE PRESIDENT: Just a moment. How nearly through are you, counsel?

DR. HOFFMANN: I will need perhaps ten minutes at the outset, Mr. President.

THE PRESIDENT: The Tribunal will now rise for lunch and will reconvene at one-thirty.

THE MARSHAL: The Court will recess until one-thirty.

(A recess was taken until 1330 hours.)

1947
29 Oct-A-FL-13-1-Schwab (Int: Jacobsohn)

Court No. VI, Case VI

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 29 October 1947)

KURT KRUEGER - Resumed

CROSS EXAMINATION - Continued

THE MARSHAL: Tribunal VI is again in session.

THE PRESIDENT: You may continue with your cross-examination.

BY DR. HOFFMANN (Counsel for the Defendant von der Heyde):

Q.- Dr. Krueger, in your affidavit you stated that Mr. von der Heyde in Berlin W-7, was the person in charge of nitrogen matters and that he also was a delegate of the Abwehr, and he also dealt with the deferment questions. Is that what comprised his activity in NW-7?

A.- Yes.

Q.- Do you know, Dr. Krueger, whether Dr. von der Heyde was drafted into the Wehrmacht after the beginning of the war?

A.- Yes.

Q.- Then he was not deferred?

A.- No, he was not.

Q.- I must assume that he was not important enough for NW-7 to have him deferred?

A.- Yes.

DR. HOFFMANN: Mr. President, I would have another number of questions, but according to your suggestion this morning I shall submit these questions in the form of an affidavit as the witness at the time when I will submit the defense case of the Defendant von der Heyde.

THE PRESIDENT: Very well.

Any further cross-examination of this witness?

DR. VON KELLER (Counsel for defendant von Schnitzler):

Mr. President, in view of the length of the cross-examination so far, I will try to be as brief as possible.

THE PRESIDENT: Thank you, very much.

BY DR. von KELLER:

Q.- Witness, in your affidavit NI-4928 you mention the name of my client in three passages which I shall briefly deal with. In one passage, if I may correct myself you deal with the Commercial Committee of which my client was the president. The first part to which I make reference, at the end of page 4 of the original, page 4 of the German copy and at the bottom of this page; Document Book 14, Exhibit 378 —

MR. SPRECHER: That is also Book 46. I think you have it in Book 46.

BY DR. von KELLER:

Q.- On that page you say, witness, that Herr von Schnitzler suffered under the Frankfurt Gauleiter Sprenger and his clique and was forced to join several party organizations. May I ask you, did Mr. von Schnitzler take up this activity on his own initiative or was he forced to do so by the Gauleiter?

A.- There is no doubt, as far as I was concerned, that he felt himself to be under pressure, but I only know this from another party because I personally had nothing to do with Gauleiter Sprenger. The many complaints and reports of that time are still in my recollection in which the gentlemen from Frankfurt reported to us in Berlin how difficult the relations were with the Gauleiter Sprenger and under how much pressure they had to work there. And how they had to suffer under his very critical and aggressive activities, and the fear and timidity of Dr. von Schnitzler would make it understandable to persons who knew his true attitude that he, so to speak, disguised himself and marched in line in order to avoid unpleasantness, especially as far as the firm was concerned, and to ingratiate himself for the sake of the firm.

Q.- Witness, you say just now that you did not know the Gauleiter Sprenger, but since you knew the defendant von Schnitzler well, I should like to ask you: Did it correspond with his general attitude to further National Socialist institutions or to cause other people to support the aims of the Nazi Party?

A.- As far as I got to know him and to judge him, no.

Q.- Now, another point, witness. In the same part of the affidavit you speak of a decision of the Commercial Committee in which it states a couple of viewpoints regarding the relations between the foreign representatives of the I.G., on the one side, and the foreign representation of the Nazi Party and the German Labor Front on the other hand. Previously you said when dealing with the relationship between Herr Sprenger and Dr. von Schnitzler that Dr. von Schnitzler had given in here, and was forced to give in in order, as far as I understood you, to avoid even worse consequences.

A.- Yes.

Q.- This decision of the 10th of September 1937 - I think - is this decision to be understood from the same viewpoint?

A.- Yes.

Q.- On the strength of this decision, as you probably know now, so-called statements of loyalty were signed by several gentlemen of the foreign organization of the I.G. Farben before they could enter on a position abroad. These statements of loyalty, were they important and fundamental statements which could be called to have any material importance, as far as you knew?

A.- I do not know these loyalty statements. I dimly remember that there were such things, but I cannot imagine that they were used extensively, and also I cannot conceive that they had any material importance. I.G. was trying to be in conformity with forms in order to ward off the constant attacks from the Nazi Party and in order to give the impression that one was following the Party line.

(Dr von Keller)

Q A, the last point I would like to have some information from you regarding the subject of the relationship between OKW and the foreign representatives of I. G. Farben. In your affidavit you state that this complex fell under the competency of the commercial committee; that Schnitzler as president had to present these matters to the Vorstand. This is the last sentence but two of the now abbreviated affidavit. These words, "had to represent", do you understand these words in this sense, that these measures were discussed in the Vorstand, or is it correct if I say that Herr von Schnitzler had to bear responsibility before the Vorstand for the attitude which the I.G. took up regarding the wishes and requests of the OKW?

A Yes, that is what I wanted to express, to present in the sense of taking responsibility within and toward the Vorstand. In this case, of course, it had to be left to Dr. von Schnitzler as to how far he was going to inform his colleagues about such subjects and incidents.

Q Is it finally correct to say that these words, "had to present", refers to the sentence which we find some lines above this last sentence, "according to which the representations of the I.G. - the putting of people who were not normally employed by the I.G. - into the positions of foreign representatives of the I.G."; that these things were prevented because the I.G. drew the OKW-Abwehr's attention to the consequences?

A Yes, that was also contained in this statement.

DR. von KELLER: I have no further questions.

THE PRESIDENT: Have you any further cross-examination?

CROSS EXAMINATION

DR. KURT KRUEGER

BY DR. BERNDT, counsel for the defendants Mann and ter Meer:

Q Witness, you have just stated in answer to questions of Dr. von Keller that Dr. von Schnitzler was possessed of a certain anxiety; could you give us some more details about it? I have noted these words.

Well what can you say about it here?

THE PRESIDENT: Just a moment, slow down. You are going a bit too rapidly for the translation staff. Continue.

BY DR. BERNDT:

Q You have said it, and I have noted it down.

A What else can I say to that?

THE PRESIDENT: That is hardly a question in its present form. Ask another question, Doctor, and let's get it straightened out on this record.

DR. BERNDT: Mr. President, I have no answer to my question from the witness.

THE PRESIDENT: It was hardly a question. Would you repeat it so we will all understand?

BY DR. BERNDT:

Q Witness, previously you stated in answer to questions from Dr. von Keller, that Dr. von Schnitzler, the client of Dr. von Keller, was possessed of a certain feeling of anxiety, and now I ask you, is that correct; and could you give us some more detailed reasons for that?

A Well, how can I prove this? From his conduct and from his reports I saw and heard that he was afraid of Sprenger and his machinations and his policy. He did not have any fear as regards his person, but as regards the firm.

Q All right. Was that feeling of fear and anxiety of such a kind that it could easily be induced by outward influences, that Dr. Schnitzler could easily be influenced by outward facts?

A Yes, Dr. von Schnitzler, so far as I could observe, was not a very strong personality and was trying to be agreeable, and he was very much influenced by these conditions.

Q You talked about these conditions; in order to remove the objection, I anticipate from the prosecution, I shall be quite frank. My clients and all of the defendants are incriminated by certain statements of von Schnitzler, and I have to ask, to retort to these

accusations; the witness has told me that Dr. von Schnitzler was a bit careful and a bit afraid and in a way, that he could be influenced by purely external matters not by the influence which Mr. Sprecher has just assumed, and I could believe that certain outward circumstances which were connected with the collapse of the Reich and incidents at Kranzberg, can have impressed Dr. von Schnitzler to such an extent that he has given statements there which would not be found correct if examined them in detail.

THE PRESIDENT: The trouble with your position is that we are not presently cross-examining any one with reference to the statements of Dr. von Schnitzler. You are limited in the scope of your cross-examination here to the subject matter of the affidavits of this witness on the stand, and frankly I am at a loss to know about what part of the affidavit your cross-examination is being directed.

DR. BERNDT: As far as I know, I may put questions in cross-examination first, about the contents of the affidavit; and, secondly, about the statements which the witness has made supplementary to his affidavit. Since the witness has given me the clue, if I may so call it, I have put a question regarding this point.

THE PRESIDENT: The limitation on the scope of your cross-examination as matters stand are the affidavits of the witness, and unless you can point the Tribunal to some statement in the affidavit that would justify the line of your present inquiry, we will be obliged to sustain an objection to it.

By that we do not mean to intimate or say that your inquiry might not be proper at another stage of the trial, but we must hold this cross-examination into its proper sphere, and we cannot permit you at this time to anticipate matters that are properly subjects of defense.

DR. BERNDT: All right. The statement of the witness suffices, and I may also say, Mr. President, that Mr. Sprecher did not raise an objection; he merely arose.

THE PRESIDENT: The Court anticipated what Mr. Sprecher was about to do, and in the interest of time, gave him the benefit of not having

to state his objection.

Is there any further cross-examination?

If not, the Tribunal will declare the cross-examination of this witness concluded. Has the prosecution any re-direct examination?

MR. SPEECHER: We have a few questions, Mr. President.

THE PRESIDENT: It is not out of place to warn the prosecution that sometimes re-direct examination opens the door to further cross-examination.

RE DIRECT EXAMINATION

DR. KURT KRUGER

BY MR. SPEECHER:

Mr. Witness, we have in evidence here, Exhibit 779, which is NI 826, and that concerns itself with a conference that you mentioned in cross-examination, - the so-called Kiel conferences. Now you attended personally some of those conferences, did you not?

A I did not understand you. Do you mean Kieler?

Q Kieler Conferences. The defense counsel just pointed out that the conferences were called, "Kieler-Woche (Kiel Week) Conferences".

A Yes, yes.

Q Now let me ask you whether or not in those conferences, there was, so far as you recall now, any discussion about the change in foreign policy of the German Reich from a nationalist policy, to an expansionist policy, which was driving towards so-called vital living-space?

A I cannot recall this at this moment. I only took part in a few discussions.

Q Well there was one in 1939 where you are listed along with Frank Fehle and other I.G. people as being present, and I am referring particularly to this conference, and I am wondering if you recall statements that were made about the importance of disarming Moravia and Bohemia because they stuck into the area of the greater living space of Germany. Do you remember that?

A I do not recall that such conferences took place at Kiel, nor do I know where in Kiel was the conferences. I have no hint as to its contents, and then this whole matter does not mean anything to me at the moment.

Q Do you recall concerning this very conference in 1939, receiving letters yourself from foreign business men who thanked you very much for the good time that you personally had shown them at this conference?

A Yes, I do.

Q. I am told that part of the difficulty may come about, witness, because the word is being translated as "Konferenz". I am talking about this association of industrial leaders which was not merely conferences, but other things as well; is that right?

A. Yes, it is.

Q. At some of those meetings, when there were official speakers, concerning German policy, with the idea of interchanging this information between German and foreign business men, do you recall some of these statements about Czechoslovakia not being a neutral country, but rather a country aligned with the people who were preventing Germany from getting her living space?

A. I cannot completely remember that at the moment, but I consider it possible.

Q. Thank you. Now I would like to ask you one or two questions to straighten out my own mind here about this question of hiding one's anti-Nazi feelings from the Nazi, at the same time that one was ingratiating himself with the Nazi.

Did this, for practical purposes, so far as you know, make any concrete differences so far as the Nazi were concerned in connection with your former chief Dr. Ilgner? Did it lead to any consequences because he was unable to keep hidden his real anti-Nazi feelings as you said?

A. Well, I will put it this way. May I make it clear to you in this way. If one listened to Dr. Ilgner, at a public speech, or if one saw his official correspondence, any person who did not know him more closely, would have to be struck by the idea that this fellow was a confirmed Nazi. This was certainly not unfavorable for our business, but if one saw Dr. Ilgner in his practical every-day work, and in his decision where it was really a matter for showing whether one was a Nazi or not a Nazi, I have in my years, in my connections with him, never observed that he had a Nazi attitude, and I was very sensitive on that point because

in business matters and in political matters, I was his opponent, and in this question, and in many cases, politically and so on, this was the difference between me and the rest of the gentlemen of I. G. Farben; and I am perhaps also different from the majority of most men, in that I consider myself to belong to the minority which adheres to a principle without compromise. This was recently stated by a Dutchman, Jess Gloss, namely, that I hate the bad in my own Nation more than in other nations. And I see the great difference of the inner attitude of the Germans in this in how far they can discard this loyalty which is due to their Fatherland, as seen as they doubt whether the Fatherland is still following the right cause. I belong to the very few people who had drawn the conclusions at a very early time, and in consequence I am politically an opponent of Dr. Ilgner who was not a National Socialist, but who was a patriot and who hoped to be able to remain a patriot to the last moment.

Q. I do not want to tell you how to answer your questions, but Dr. Kruogor, would you please try to be a little shorter? Mr. President I hope you do not mind my observation.

THE PRESIDENT: Very well.

BY MR SPRECHER:

Q. Will you tell us whether or not it could fairly be said that the propaganda group of industrialists which was formed in 1933, and which you say existed until 1934, had the purpose primarily of putting forward the best foot of the Third Reich?

A. Yes.

Q. You spoke about the first of May, 1933, on cross-examination. Do you know what happened on the 2nd of May, 1933, to all of the leaders of the German Trade Unions?

A. Yes.

Q. That was published broadly in the papers at the time?

A. Yes.

Q. You mentioned this question of, "hunting with the hounds". Once

in a conversation with me, I believe you mentioned that it was the policy of, "howling with the wolves"? Is that correct?

A. Yes.

Q. Through the intelligence sources that you had in NW/7 did you at any time before 1945, find out some of the official determinations which were made concerning the nature of the Karl Schurtz Association, as a 5th Column Organization in other countries? Just say whether or not you did?

A. An anti-Nazi organization? No.

Q. No, as a 5th Column organization. You know what we mean by "5th Column"?

A. Yes, I do. No.

Q. Thank you. Now you mention that Vo^WI reports were given to anybody who was interested; did you mean to include in that group all of the secret reports of the VOWI?

A. No, the secret reports were of course, only accessible to the central office which was bound to keep these matters secret, and was interested in keeping them secret.

Q. Were the VOWI reports given to any possible competitors of Farben; or don't you know? You possibly don't know.

A. I think that is possible.

Q. You do not recall any instances as of the moment when these reports were circulated broadly to competitors?

A. No.

Q. All right, Did you ever hear anything of the resistance of Admiral Canaris before 1944?

A. In 1944. I heard that.

Q. Yes. It became public then because he was arrested. Did you ever hear anything before that time?

A. Yes, I did. I only knew that it was known that Canaris was not a reliable adherent of Hitler's.

Q. He was still head of the Abwehr organization of the OKW until the attempt on Hitler's life; is that right?

A. Yes, that is correct.

THE PRESIDENT: Mr. Prosecutor, just for my own information...

A. I am sorry. I have answered too quickly. I cannot say this. I remember that a change took place at some time, but I do not know when, and that the ABWEHR was taken over by the SS. Whether that took place after the 20th of July or before that, I cannot tell you at the moment.

THE PRESIDENT: I was about to inquire for my own information and I should like to know, do you regard this as re-direct examination or omitted questions on examination in chief?

MR. SPRECHER: No, no. I totally regard all of this, your Honor, in order to clarify cross-examination in a way which I consider very normal re-direct.

THE PRESIDENT: I just need to know that; perhaps it might help a little bit. So go ahead.

MR. SPRECHER: That is my sole purpose. I have no other purpose of bringing new information out of this witness, but if, for example, this Canaris matter is mentioned in a way that makes it appear that this was an open resistance movement in July 1944, I cannot exactly leave the record stand in that way.

THE PRESIDENT: Very well. I understand your position.

BY MR. SPRECHER:

Q. Now we have before us an exhibit which is Prosecution's Exhibit 377, NI 6544, which is an affidavit of the defendant, Ilgner, and I would like to refresh your recollection, if I may, in the same way that the defense refreshed your recollection concerning the so-called case of von Lersner. Would it make any difference in your testimony at the present time if Dr. Ilgner had said that von Lersner had given copies of his situation reports and that copies were sent to the Foreign Office,

the OKW, and one copy to you?

A. No. I remember that for a certain period of time reports of von Lersner regarding the situation and the general mood in Trukey came to me. I saw in that a gesture of Herr von Lersner to do something on his part in order to reward us for the fact that we had helped him, but I believe that I remember I had asked for the cessation of these reports because they only told us what we knew in any case from the foreign news which one heard from friends, and that if they were found in my files, they would be very incriminating for me, and would have endangered me in case the Gestapo tried to proceed against me. But at for the rest, I do not believe I have to make any alterations in what I have previously said regarding von Lersner.

Q. Now I did not quite understand your reference to the New Order, when you said in connection with the Austrian matters that it was a reference. What did you mean by, "a reference"?

A. I meant, I did not in the affidavit use the title, which the defense counsel assumed, rather I believe that this word, "new order" originated in this way, namely through a letter of the 9th of April, 1938 which quotes the words, "new order". I only want to clarify this, - this letter of the 9th of April reached me under this reference "New Order", and that I submitted my statement under this heading.

Q Then previously the point you make is that one of Farben's letters concerning the dye stuffs situation in Austria used the words "Neue Ordnung" or New Order, is that what you mean to say?

A Yes, that's how I recall it.

Q You said you didn't know who owned the Brown House. You did know what the Brown House in Munich was?

A No, I have been misunderstood here. I did not know to whom the house belonged which was bought with I. G. Farben means, or those of an enterprise friendly to I. G., I took it that this house was bought for the Brown House.

Q The Brown House refers to the Nazi headquarters for all Germany in Munich, is that right?

A Yes, that is what I took to be self-evident.

Q Now, where were the headquarters of Dr. Weibel, the deceased Vorstand member, Weibel? Where was his headquarters?

A In Frankfurt on the Main.

Q Where were the headquarters of the Auslands organization, the AU?

A In Berlin.

Q Now, you mentioned that a number of people were Gattineau's superiors, and you included Ilgner, I believe yourself, Terhaar and Frank-Fahle. Was this all at the same time or do you mean successively or in different positions?

A Yes, I understood the question of defense counsel to mean that he wanted to introduce an order of hierarchy. Some of them were directors and at that time Gattineau was still a prokurist.

Q But all of these men did not stand in a direct pyramid over one another, did they? There were different departments, where Gattineau had different duties in several different departments, and, therefore, had different chiefs.

A Yes. The way I see it, he had practically only one superior. That was Dr. Ilgner and, at that time, I was Dr. Ilgner's deputy.

Q. But you mentioned Frank-Fahle?

A. Frank-Fahle was my deputy.

Q. In ZsFL was he your deputy so far as WIPO was concerned?

A. That changed from time to time, but I believe one might say that this did not have the importance, the practical importance; I would not say that Gattineau was subordinate to Frank-Fahle in his real work.

Q. Well, we have an affidavit of Frank-Fahle in which he certainly disclaims any such connection. Does that help you in clarifying the matter for us?

A. I'm afraid I didn't understand you. I believe that I have answered this sufficiently and I am clear now that I didn't see a case in which Frank-Fahle, as my deputy or in any other way, could be said to have acted as Gattineau's superior.

Q. Thank you.

After Von der Heyde was drafted in the Army, tell us whether or not he had any official duties whatsoever with Farben.

A. I can't recall that at this moment. I saw very little of him. I believe he was exclusively active for the Wehrmacht, often traveling, but I cannot answer this precisely at this moment.

Q. No further redirect.

RECROSS EXAMINATION

BY MR. KATH (Defense Counsel for defendant Ilgner):

Q. Dr. Krueger, Mr. Sprecher asked you some questions regarding the Kieler-Week. Is it correct that the event mentioned by Mr. Sprecher took place in 1939?

A. Two events took place, one in 1938 and one in 1939.

Q. Mr. Sprecher just tells me that he is referring to the one in 1939 so that we can concentrate on this event.

First of all, can you remember whether Dr. Ilgner took part in this week?

A. I know that he did not take part because he was ill.

Q. Now, I want to read to you from documents which the prosecution has submitted. I want to submit letters to you and I want to ask you whether you recall these letters. I am referring Mr. President, to Exhibit 779, NI 826.

This is, first of all, a letter from a certain Mr. Voutas from France, which is addressed to you Dr. Krueger, and in the translation which is given here it says: This is a letter of thanks regarding this event. I quote:

"In every case, this establishing of contact is very interesting and can only help the improvement of international relations which are so necessary for the world economy."

Do you remember this letter?

A. I cannot remember it concretely, but I know that I received such letters and I know Mr. Voutas very well, and I deduce from this fact that this letter reached me.

Q. A second letter originated from a certain Mr. Andreas in London, was addressed to Mr. Frank-Fahle, and I would like to ask you if you have heard of this letter or whether you can remember the answer. First of all, Mr. Andreas says he and his friends in England took it as a matter of course, that this event went off like clockwork, without any disturbance whatsoever. I quote now:

"This was self-evident, but the fact with which I did not reckon and which so deeply impressed me and which delighted and encouraged me was the courtesy, and I might say, the warmth of your greeting and welcome. The under-current of friendship and cordiality which, in view of the present international situation, provided a background for my visit which was so encouraging and so enjoyable.

MR. SPEECHER: Bearing in mind the remarks of the President, I feel that I must make an objection. This concerns a letter to somebody else and not to this witness, and is beyond the scope of recross.

THE PRESIDENT: Well, counsel for the prosecution tried to refresh the recollection of the witness with reference to some letters

perhaps different, in fact, from the one now being asked about, but that, in the judgment of the President, opens a door to the defense to further refresh his recollection with reference to the incident, if counsel can. We think that it would be proper.

BY MR. MAHON:

Q. Dr. Krueger, will you please answer my question whether letters of this kind or the kind which I have quoted now, regarding this event - do you recall those letters?

A. Yes. The fact that these letters arrived and that we used the letters and passed them on to some other agencies interested, I can distinctly recall, but I cannot recall the individual letters and the contents.

Q. That, of course, is intelligible. What I am interested in is to bring into prominence the impression which the foreigners especially had of this Kieler-Week, and now I want to submit to you a German report and ask you whether you remember it.

It is the same exhibit, Mr. President, 797. It is a report on the German Foreign Countries Club, the official convener of the Kieler-Week at that time.

Dr. Krueger, I am now referring to the quotation which Mr. Sprecher just put to you in the redirect. I should like to read this passage from the letter of the German Foreign Countries Club. I quote:

"The Southeastern Europeans are absolutely grateful if one acknowledges that their living space is over-populated, as far as agriculture is concerned, and that, in consequence, if the mutual economic relations are improved, this will not result in a German colonization but only German cooperation and assistance with respect to the intensification and industrialization of their economy."

Witness, do you recall that during the Kieler-Week these views of the German commercial and industrial representatives, in regard to the Southeastern area, were uttered by them?

A. Yes, If I remember correctly, that was the chief subject, for, as far as Southeastern representatives were present, the industrialization of those countries was discussed. The valuable German help was announced and put at their disposal to examine the question how one could proceed practically in individual instances.

Q. According to your recollection, did the foreigners of the Southeastern area look upon this as power policy or a power political penetration of their living space or not?

A. By no means.

Q. Thank you.

Another question. I give you as a clue the maintenance of secrecy regarding the VOWI reports. Is it correct if I say that this keeping secret of these reports took place only after the outbreak of war and only at the request of military agencies?

A. The latter certainly is the case but, at the moment, I cannot precisely state when this happened. It is possible that this directive came earlier, but I believe that the directive which one received previously was of this nature, that, up to a certain extent, one had to decide oneself what had a secret character, and, if I remember rightly, we did not understand the VOWI reports to fall under this category, but this changed as soon as war broke out, because part of the VOWI personnel worked directly for the Wehrmacht, there was no doubt now that reports of the VOWI, etc., fell under the category of things which had to be kept secret.

Q. May I call "work for the Wehrmacht after outbreak of war" service assignment. Some persons had to work for the Wehrmacht and VOWI, but was there not an intention at some time to ask all the gentlemen working there to work for the Wehrmacht?

A. Yes, that intention did exist. I might call it a kind of service assignment, the kind of relationship which was instituted then. It was an assignment regarding the whole apparatus. It was not certainly not an official contract, or course. It's only a formal way of stating that people required by the Wehrmacht could be called upon to do certain work.

Q. Is it known to you that reports of the VOWI were handed on to the I.C.I.?

A. I think this is a matter of course. I can't recall whether

this happened, but taking into account the whole character of VOMI reports, I think this is self-evident and natural.

Q. I am referring to the English chemical trust, I.C.I.

Witness, the other point discussed by Mr. Sprecher, activity within the so-called Industrial Circle of the Propaganda Ministry, could you tell us who else was a member of this circle, according to your recollection?

A. At the moment I only remember Otto Christian Fischer, the banker, and I believe of the Kali-Syndicate Mr. Diehn was present, and from Siemens a gentleman took part - I don't remember his name, although I often had to deal with him.

Q. May I help you? Maybe Max Hahn?

A. Yes, I think Max Hahn also took part, but this is not the gentleman of the Siemens Concern to whom I am referring.

Q. Dr. Krueger, now if you try to recall to mind the names and personalities of these gentlemen.....

MR. SPRECHER (Interrupting): I didn't go into the names of any of the gentlemen in the circle, Mr. President. In fact, in redirect, I asked him if the policy was to put the best foot forward. I don't think he is entitled to cross examine to this length. I object.

DR. NATH: May I shortly rejoin. The witness has been asked here whether the members of this so-called Leaders' Circle had to perform propaganda for the Third Reich abroad and I would like to discuss here whether the gentlemen, now recalled by me to the witness, looked upon this as their view and their task. I wonder whether they had another interest in view; namely, if I may now formulate....

THE PRESIDENT: You may ask that, but asking for the names of the individuals wouldn't help any. You may ask, in a general way, without going into details, about all the personnel that is involved.

BY DR. NATH:

Q. Witness, do you believe or is it your view that the gentlemen active in this industrial leaders' circle, which had only a very short

life, that these gentlemen were principally concerned with cultivating good economic relations with foreign countries and that by the way, that is, as a side line, as a support, they tried to foster a certain reputation of the German economy?

A. I see it like this. These gentlemen, as industrialists, were primarily for the larger part, only interested in furthering their economic interests and that only to a certain extent they considered Nazi Ideology because they believed that, under the changed circumstances, it was absolutely necessary.

Q. Thank you. I have no further questions.

BY DR. HOFFMANN (Defense Counsel for defendant Von der Heyde):

Q. Witness, to the question of the prosecution, you replied that you had seen Von der Heyde after his drafting into the Wehrmacht, that you had seen him only rarely because he was in the Wehrmacht. I now ask you, these rare occasions at which you saw Dr. Von der Heyde, could they also have taken place in N° 7?

A. Yes.

Q. Thank you. This is in conformity with the documents we have here.

BY DR. GIERLICH (Defense Counsel for defendant Schmitz):

Q. Dr. Krueger, I only have one question. Mr. Sprecher has just asked you whether it was correct that in a conversation you used the expression "to hunt with the hounds" or, as you put it, "to howl with the wolves". The defense can do very little with your affirmative statement if it does not see the connection. I take it that Mr. Sprecher had the intention, although he did not show us in any way in what connection this took place, of wanting to characterize the attitude of the defendants, or part of the defendants. Could you tell us, for the purpose of clarification, at which occasion and in what connection this remark was made?

MR. SPEECHER: Mr. President, I scarcely feel that it is necessary to the Tribunal that defense counsel indicate what they

think my purpose was in this connection if it is part of the question, they can ask the fact.

THE PRESIDENT: As the Tribunal sees it, this phrase that's now being inquired about was mentioned in the testimony of this witness. It's certainly proper for counsel for the defense to ask the witness, directly, as to what he meant, what he means by the use of that expression, if that is, as we take it to be in a general way, the purpose of counsel for the defense, it's proper.

BY DR. GIERLICH:

Q. That's the import of my question, Mr. President.

A. This morning I said this was a very difficult decision, at least, it was a very difficult decision for many people - how one was best to conduct one self after Hitler came to power. I also mentioned that Bosch, Hoellendorff, Hummel and Kalle inclined to an attitude which would have meant rejection or, even, a negative attitude, but since, after all, the majority was of the view that such an attitude would have cut at the life roots of I. G. Farben, that it did represent a personal luxury if the firm would follow the idea of resistance, that for men who were responsible for the enterprise it was not a starting point for practical management, because it would not lead to any success and, at this juncture, the majority, at least - that's how I saw it and how I felt it and how I heard it - the majority believed that the strategy of "howling with the wolves", as one says in German, that this strategy would be the best.

Q. Then the meaning of your remarks was to show that the majority of the leading gentlemen in I. G. were of the opinion that it was important, in the interests of the firm, at one or another occasion, to show outwardly a certain conformity, but by no means you intended with your expression that individually one identified one's self with this attitude. Have I understood you correctly now?

A. Yes.

Q. I only have one further question. Mr. Sprecher raised the issue of the incidents on the 1st of May 1933. According to your view is it true, Dr. Krueger, and do you remember discussions which were not infrequent on this subject, that especially for people who were independent thinkers, it always remained one of the most incomprehensible events that the fact that an important part of the old leaders of the German workers were dismissed without further ado from their positions and were mostly arrested, did not result in any reaction, whatever on the part of the workers that there was no question of strikes, etc., and that, on the Tempelhof Field, almost a million men listening to the phrases which disguised these events were enthusiastic in their applause?

A. Yes, that is the shocking fact which we had to experience at that time.

Q. Thank you. I have no further questions.

THE PRESIDENT: Does that now conclude finally the direct, redirect, cross and recross examination of this witness? I think this is a good illustration of the problem which confronts the Tribunal when we recall the very very large number of witnesses yet to be heard on cross examination. It is a problem that concerns the Tribunal very much in the interest of some time reaching the conclusion of this case.

Are you ready to call your next witness?

MR. SPRECHER: Yes, Mr. President, may I have just a moment.

THE PRESIDENT: The witness in the box is excused from further attendance.

MR. SPRECHER: Mr. Marshal, is the witness, Mureck, outside?

Mr. President, while we are waiting for the witness to come in, I might say that there are only two short affidavits involved, Exhibit 620, Document Book 35, English, page 15, German, page 21, and Exhibit 668 which is in Book 31, English, page 16, German, page 13. I should have given you the NI numbers. The first exhibit 620 is NI-9620. The second exhibit 668 is NI-6919.

HERBERT MURECK, a witness, was examined and testified as follows:

THE PRESIDENT: The witness will remain standing to be sworn, raise his right hand, say "I" and state his name.

THE WITNESS: I, Herbert Mureck --

THE PRESIDENT: The witness will now repeat after me:

"swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing."

(The witness repeated the oath.)

THE PRESIDENT: The witness may be seated.

DIRECT EXAMINATION

BY MR. SPRECHER:

Q Will you state your full name for the record?

A Herbert Mureck.

Q Your present address and your present occupation, please?

A Huerth near Cologne, Dr. Kuertenstrasse 21 to 23. I am engaged
3030

as a chemist with the Degussa.

Q What was your position from 1933 until 1943?

A During that time I was active with the Military Economy Office in Berlin.

Q Now, witness, you have copies of the two affidavits before you in the German language with which we are not concerned?

A Yes. I have copies of 620 and 668, and I believe I have heard the second number differently a little while ago.

Q Thank you, that is right, 668 and 620. Now you have a correction to make as you informed me today. Will you please indicate where that is and what it is by paragraph and according to the document? Oh, here I have a note. It is in NI-9720. That is Exhibit 620 under paragraph 3. You state that after you listed the plants that your knowledge concerning those matters reaches only up until July, 1943, is that correct?

A July, 1943, until I concluded my activities with the Military Economy Office.

Q Thereafter you have no further knowledge about these matters, is that right?

A No, I wouldn't exactly put it that I had no knowledge. I should rather say I had no immediate knowledge.

Q Thank you. Do you have any other corrections or additions you would like to make now to these two affidavits?

A No.

MR. SPRECHER: No further questions.

THE PRESIDENT: The Defense may cross examine.

DR. WAGNER: Wagner for Dr. Wurster.

CROSS EXAMINATION

BY DR. WAGNER:

Q Witness, in your affidavit, Exhibit 668, NI-9619 you talk of the stand-by plants, known to you which were planned for the outbreak of war and which were to be run by I. G. Under "B" you mention as a sulphuric acid plant, Wolfen.

A Yes.

Q May I ask you do you mean the plaster sulphuric acid plant?

A No.

Q Do you then mean the Oleum stand-by plant?

A Yes.

Q Now I have to put the following questions to you. Is it correct that the authorities had demanded the running of this plant?

A Yes.

Q Is it also correct that this plant did not represent an extension of the German production capacity of sulphuric acid?

A That is correct. In the final phase it can be called an extension but not in the basic phase.

Q Is it correct that it is merely a matter of the completing of a sulphuric acid plant which was in existence for more than ten years, by adding an oleum system?

A Yes, that is correct.

THE PRESIDENT: Pardon me a moment. Witness, for your information it is necessary to pause between questions and answers until the English translation reaches us, and when you see the yellow light, it is a warning that you are going a little too rapidly for the translation staff to keep up with its work. If you remember two things, to allow a little time after the question is asked before you answer for the translation of the question, and to take the yellow light as a warning, it won't be necessary for us to interrupt you again.

DR. WAGNER: Shall I repeat the question, Mr. President?

THE PRESIDENT: Yes, you may.

BY DR. GIERLICH:

Q I repeat the question. Is it correct that in this case here it was only a case of an improvement of a factory for sulphuric acid which was in existence for ten years by an addition of an oleum system?

A That is correct.

Q Is it correct that the extent of the oleum system was very modest?

A That, too, is true.

Q Do you remember, witness, that the negotiations regarding the erection of this plant were not conducted by Dr. Wurster but by another gentleman?

A I cannot recall to have seen or heard Dr. Wurster in connection with these conferences.

DR. WAGNER: Thank you.

DR. DIRSCHEL: I have only a few supplementary questions, Mr. President.

CROSS EXAMINATION

BY DR. DIRSCHEL:

Q Now regarding this list, witness, in Exhibit 668, page 1-A, and following, you mention the stand-by plants planned and constructed before the outbreak of war which were to be run by I.G. You are talking of stand-by plants. You don't draw distinctions between plants belonging to I. G. and plants demanded by the Reich, so-called stand-by plants, is that correct?

A That is correct.

Q Would it not be clearer if we would make this difference to indicate plants owned by I. G.?

A At that time I made it my principle that those plants were listed which were not normally planned by I. G. but were erected on the demands of the Reich, and I did not take into account the form of construction.

Q Now I may put it to you that the sulphuric acid plant in Wolfen, page 2 of the original of the exhibit at the top, belonged to the I. G. and was not a stand-by plant, is that correct?

A I cannot exactly remember the agreements regarding the erection, but I think I can assume that it belonged to I. G.

Q And the same applies to the plant for chlorine at Huels, and I may put it to you that that again was a plant which belonged to I. G.

A Yes. I am of the opinion that chloride belonged to the diglycol plant, but I admit that in this matter I may be mistaken.

Q The same applies to the methanol plant in Waldenburg, little d. on the document, Here again I ask you does this plant belong to I. G. or was it a stand-by?

THE PRESIDENT: Just a moment.

MR. SPEECHER: Mr. President, may I make a suggestion in the interest of conserving time. In our opinion, the witness after we discussed this with him was not able to distinguish these things as closely as some other persons might. That is why they were put in the alternative. Now I am perfectly willing to sit down with Dr. Drischel and make clear to this court in most unmistakable terms so that we can have it settled once for all not only for this cross examination as to which of these plants were old I.G. plants and which ones were financed by special means during the war, without taking the time of this Tribunal in order to go into a point where the witness does not specify.

THE PRESIDENT: It is time for a recess. Perhaps you can make some progress along that line. Just before we rise for our recess, the President would like to see Dr. Siemers about a little administrative matter in his chambers at recess just for one moment, please.

We will now take our recess.

THE MARSHAL: The Court will recess for 15 minutes.

(A recess was taken.)

THE MARSHAL: Military Tribunal 6 is again in session.

DR. NATH(Counsel for Defendant Ilgner): Mr. President, I should like to make a brief statement. I have considered the objections made by the Tribunal before the recess, concerning the length of cross-examination of the witness Dr. Krueger. Since I spent the most time in examining Dr. Krueger, I should like in this specific case to point out the following to the Tribunal.

First of all, I believe I may say that the Defense, inconsidering not only the contents but also the number of affidavits, cannot be held responsible for this. On the other hand, the Prosecution some time ago announced Dr. Krueger as an important witness; and you will recall Your Honors; that the contents of these affidavits were formulated in such a way as to affect all twenty-three of the defendants. That derives primarily from the manner in which these affidavits were taken down.

I respectfully emphasize that in this cross-examination important, fundamental questions were discussed which will serve to aid the Tribunal in reaching a decision, and I add that less than one-third of all Defense counsel cross-examined this witness.

I would like to ask the Tribunal to consider this specific case of the examination of Dr. Krueger from the point of view of this special importance, and I believe that my colleagues agree with me that we may hope, in the future, to hold less extensive cross-examination. But, Mr. President, as I have said, that depends on the extent and the contents of the affidavits which are submitted by the Prosecution. Not only are the duties of the Defense taken very seriously but they necessitate also an opportunity to carry out the necessary cross-examination.

My request is only that you not consider the ease of the witness Krueger as an example of the length of the cross-examination.

THE PRESIDENT: The President has tried to exercise care in every instance in which this matter of the time consumed on the cross-examination of these witnesses was mentioned to say over and over again

that is no disposition whatever on the part of the Tribunal to unduly restrict the Defense so as to deny the defendants the benefit of a full and comprehensive cross-examination. If the chair omitted to say that when the last remarks were made, it was merely an oversight.

Niether were our remarks intended to indicate any impatience or criticism of counsel for the Defense with respect to this cross-examination. The Tribunal realizes, as well as the counsel for the Defense knows, that the character of these affidavits were such as to open a broad field of cross-examination. I may say to you, however, on behalf of the Tribunal that when we bear in mind that there are yet perhaps --- What is it, Mr. Prosecutor, - seventy-five or eighty of these affiants will be introduced here for cross-examination?

MR. SPEECHER: Well, Mr. President, that is beyond the power of the Prosecution to say.

THE PRESIDENT: I mean, possible affiants.

MR. SPEECHER: Possible, yes. But we have suggested many other means of getting out the facts that the Defense wants to get out.

THE PRESIDENT: Bear those matters in mind, and then take into account the time that is consumed in the cross-examination of individual witnesses. It is somewhat bewildering as to how long this thing will require.

The Tribunal is not quite ready to make an announcement of it, but I think there is no impropriety in the President saying that our purpose in making the comment just before the recess was to impress upon all of counsel -- Defense and Prosecution alike -- the fact that we are confronted with a troublesome problem in the matter of time. Perhaps -- and most likely -- I may say that in the next few days the Tribunal will, of its own motion, suggest a method of solving this problem that will not in the slightest, in our judgment, infringe, in any way whatever, upon a full and complete cross-examination of these witnesses.

We are making some inquiries now, and we hope that perhaps by the first of next week we will have something to say to you on that subject.

Our purpose in mentioning it now is to acquaint you with the practical problem that confronts us all as to the length of time that will be taken in the cross-examination of such witnesses as these.

Now, just one thing more: That is that we renew the suggestion made heretofore that where counsel for the Defense and the Prosecution can confer and agree upon taking out parts of affidavits, or amplifying parts that may not be sufficiently clear or full, or where the parties feel that the cross-examination of particular witnesses can be dispensed with, we will appreciate whatever you can accomplish along these lines -- bearing in mind what counsel for the Defense mentioned.

I ask you to bear these matters in mind, and where you can, through cooperation, dispense with or shorten the cross-examination, we will appreciate it. We are not asking you to waive any rights whatever in connection with these matters, but simply avoiding as much as you feel you can the unnecessary consumption of our time.

Counsel may proceed with the examination of the witness.

DR. DRISCHEL (Counsel for Defendant Ambros): I have already talked to Mr. Sprecher and we have agreed to go through the list because there are only a few more points which require discussion. First of all, I should like to avoid any possible misunderstanding. I made a mistake earlier in speaking of I.G. - owned stand-by plants, but I believe the witness understood me. I wanted to distinguish between I.G. -owned plants, on the one hand, and stand-by plants, on the other hand.

HERBERT MURECK - Resumed.

CROSS-EXAMINATION (Continued)

BY DR. DRISCHEL:

Q. You did understand me to that effect, did you not?

A. Yes.

Q. My last question was whether you know that the plant for Chlorine at Hucls was a purely I.G. plant. I believe you answered that in the affirmative.

A. I answered that I did not know exactly because I assumed that the chlorine plant was part of the diglycol plant, but I am not certain of my facts here. It is probably true that it was an I.G.-owned plant.

Q. And the methanol plant at Waldenburg was also an I.G. Plant?

Do you know that?

A. That is correct.

Q. Then we come to Number 3, on the same page of your affidavit.

Aside from Wolfen and Gendorf, the diglycol plants in Huels and Schkopau were stand-by plants? I am speaking of 3-A. Can you confirm that?

A. I am not certain about the time; I am sure that what you say must be correct.

Q. Thank you. Now, on page 3 of the affidavit you mention Ammendorf. Page 2 of the English. Do you know what kind of a plant that was and to whom it belonged?

A. This was the Orgacid Plant Ammendorf.

Q. Yes.

A. I said in my other affidavit that I did not know exactly the conditions of ownership of that plant.

Q. Have you in the meantime learned that Orgacid G.m.b.H. was not an I.G. plant?

A. I have not conducted any such investigation. I assume that that is quite clear.

Q. Now, Exhibit 620, on page 2, you say that all the other plants, with the exception of Hahnenberg, were regarded as plants operated by I.G. First of all, you included Ammendorf by mistake. I think this has been clarified.

A. I believe that the text is quite clear, Number 4: "I do not know the circumstances in regard to ownership at Ammendorf. The same holds true for Falkenhagen. All other plants—" That means that the two just mentioned are not included—" with the exception of Hahnenberg were regarded by the Military Economy Office as plants operated by I.G. That is Huels, Gendorf, Dyhernfurth, and the relatively insignificant plant at Ludwigshafen."

Q. Do you mean to say that those were all the plants which worked in this field?

A. During the recess just now it was recalled to my memory that there were other small plants which, in my opinion, are of no significance.

Q. Are you thinking of Stessfurt?

A. Yes.

Q. Selze?

A. Yes.

Q. Riegel?

A. Yes. I may add something for clarification. No—I won't go into that; it is not important.

Q. Then your calculations on the capacity will have to be changed somewhat, according to the corrections which you have just made.

A. It is very difficult to make up such calculations of capacities because such figures always refer only to a very definite time.

Q. Concerning what time, for example, were your calculations based, on page 2: "85 percent"?

A. Approximately the last part of my work in the Military Economy Office.

Q. That would be about 1943?

A. That is right; that would be about 1942-43.

Q. Not before the war?

A. Not before the war; but I would concede, especially since it was not my field of work, that I may have made some mistakes in recollection. On page 1 of the original I said that I would assume that there could have been no important plants without my knowing about them. That is doubtless correct. I was asked during the interrogation whether I would have had to know about all the plants in the course of my work—and I answered this question in the affirmative. But that does not mean that I remember completely everything that came to my attention at the time.

DR. DRISCOLL: Thank you; I have no further questions.

THE PRESIDENT: Any further cross-examination of this witness?
Any re-direct?

MR. SPEECHER: No re-direct, Mr. President.

THE PRESIDENT: The witness is excused.

Have you another witness available, Mr. Prosecutor?

MR. SPEECHER: Yes, Mr. President. As its next witness the Prosecution calls Guenther Hausen.

THE PRESIDENT: While we are waiting you can give us the book reference.

MR. SPEECHER: I beg your pardon. The Exhibit 821 is HL-9777. That is in Book 45, at page 148 of the English and page 213 of the German. The only other exhibit involved is Exhibit 822, which is in the same Document Book 45 and which follows immediately after, at English page 175 and German page 237.

THE PRESIDENT: What is the document number of 822, please?

MR. SPEECHER: Thank you. Mr. Messenger, will you help the witness with his earphones?

GUENTHER HAUSEN; a witness, took the stand and testified as follows:

THE PRESIDENT: The witness will stand to be sworn, raise his right hand, say "I" and state his name.

WITNESS, I, Guenther Hausen....

THE PRESIDENT: The witness will now repeat after me:
swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

The witness may be seated.

DIRECT EXAMINATION

DR. GUENTHER HAUSEN

BY MR. SPRECHER:

Q.- Please repeat your full name for the record;

A.- Guenther Hausen.

THE PRESIDENT: Just at this time, witness, may the Tribunal remind you of the fact that it is necessary to translate your testimony add the questions that are put to you by counsel into the English language, for which purpose we have translators here. That necessarily requires that there be a slight pause between questions and answers so that the translations can get to the members of the Tribunal. Please bear that in mind. In front of you also are two lights. When the yellow light flashes, it is an indication to you that you are going too rapidly and to slow down your pace; and if perchance the red light is displayed, please stop entirely until you are told to continue. If you will bear that in mind it will save us having to interrupt your testimony.

BY MR. SPRECHER:

Q.- What is your present address, witness?

A.- Leverkusen, Schleebusch, Kalkstrasse, 222.

Q.- What is your present occupation?

A.- Prokurist of I.G. Farben.

Q.- And what was your position before the German collapse in 1945?

A.- Prokurist.

Q.- Now witness, do you have before you copies in the German of your affidavit NI-97777 and NI-9776?

A.- Yes.

Q.- You have indicated to representatives of the prosecution in the last day or two that you would like to make a change in NI-9776?

A.- Yes.

Q.- Can you indicate that by the page or paragraph number?

A.- Page 3, the first paragraph at the top.

Q.- Please continue.

A.- This passage can be stricken out.

MR. SPRECHER: Mr. President, that is the top of the page, the mimeographed copy, page 3, and it is just before the usual phrase. "I have read each of the pages", and beginning with, "In addition" and down to the bottom, the witness wishes to strike the matter out.

Q.- Is that correct, witness?

A.- Yes.

Q.- Do you have any further additions or corrections you wish to make at this time in either of these two affidavits?

A.- No.

MR. SPRECHER: No further questions.

CROSS EXAMINATION

DR. GUENTHER HAUSEN

BY DR. BERNDT, counsel for the Defendant Mann:

Q.- Witness, will you please look at Exhibit 821?

A.- Yes.

Q.- In this affidavit you have listed contributions of Bayer from '37 to '41; as far as contributions of the representations are concerned. Is that so?

A.- Yes.

Q.- This includes contributions to support sport associations, singing societies, to hospitals, and welfare societies. Did you consider these as political contributions, or do you consider them charitable or other contributions, with no political purpose?

A.- I was told to list those.

Q.- Where did you put the payment to the Winterhilfswerk?

A.- They are included.

Q.- Non-political purposes?

A.- They are included here.

Q.- Were those in political contributions, - winteraid?

A.- I don't think there were any such contributions abroad.

Q.- I will check. You also gave payments to Chambers of Commerce; and to the Association of the Commercial Employees. Is that correct?

A.- Yes.

Q.- Didn't every firm abroad have to make payments to the German Chamber of Commerce, and to the German Commercial Employees' Association?

A.- Yes, most German firms had to make such payments.

Q.- Did these payments have anything to do with political contributions?

A.- No.

Q.- If I now go over all of these contributions with you, for non political purposes, and withdraw them from the total, then the payments for the party within the last five years, - there is very little left, isn't there?

A.- There was left very little.

Q.- I said there is very little left?

A.- I did not understand you.

Q.- And now these payments; who made them? Were they paid out of Ludwigshafen or Berlin or Germany, or from the representations abroad?

A.- You mean the political ones?

Q.- All of them.

A.- The ones I listed, are only those of Bayer.

Q.- We misunderstood each other or I did not make myself clear. I did not want to ask you who paid them, but who ordered them to be paid; who gave the instructions? Were the instructions issued by Leverkusen or by the individual representations abroad?

A.- The payments were made by the representatives abroad in agreement with Leverkusen.

Q.- When did Leverkusen hear about these payments?

A.- Very often there was an inquiry beforehand, and smaller amounts were approved subsequently.

Q.- I see. Now did you submit the reports on cash in hand to Mr. Mann?

A.- No.

Q.- Your list includes 5 years and 38 countries. If I add them up there were truly only two contributions made per year per country. Could that be right?

A.- The individual years are summed up here; sometimes there were several smaller contributions.

Q.- From '37 to '41?

A.- Yes, but there were often several small payments per year which are added together here.

Q.- I have figured it out and discovered that there were two payments per year per country, of a political nature.

But let's stop this. That is not so important. Look at Exhibit 822. Bayer got payments of foreign currency abroad?

A.- Yes.

Q.- And to whom was this foreign currency given which was earned abroad? Could Leverkusen make dispositions with regard to that foreign currency?

A.- No, only as far as the German foreign currency laws allowed for that.

Q.- And who made the dispositions?

A.- The Reichsbank.

Q.- Now how did the Reichsbank learn that there was foreign currency available?

A.- We always turned the foreign currency over to the Reichsbank.

Q.- I believe you only reported it?

A.- No, we actually turned it over.

THE PRESIDENT: I fear you are offending a great deal against the yellow light. You had better slow down. The witness is doing better than you are.

BY DR. BERNDT:

I do not want to delay the proceedings too much.

Q.- Then I have only one more question. Now if any German authority such as an Embassy, wanted to make a payment abroad, how was that done? With this money?

A.- I don't know.

Q.- But you were a bookkeeper in Leverkusen. Did you ever have an inquiry or an instruction from an Embassy whether something should be paid or that something should be paid?

A.- No.

The Central Finance Office gave instructions to pay it to the Embassy.

Q.- Weren't the payments made directly abroad?

A.- Yes, in all cases.

Q.- Then when did you learn of the payments?

A.- Mostly when they had been paid, after the payment, but in many cases we knew about them beforehand.

Q.- Then did you or the representation in the country concerned, know at all what the payment was for?

A.- No, we hardly ever knew that.

Q.- My last question, wouldn't frozen foreign currency often have been paid? Do you understand what I mean?

A.- Yes. Those were sums of which we could not dispose in the ordinary way, and so we were glad to be able to turn over the money to the Embassy.

DR. BERNDT: Thank you, no further questions.

BY DR. HENZE (Defense Counsel for defendant Kugler):

Q. Mr. Hausen, I should like to examine you on this list of figures and ask you a few questions because, in my opinion, these are figures which are not only typical of Bayer agencies. These payments which you list here were all made during the war. Mr. Hausen, do you know now the transfer of money from trade between South American countries and Germany took place? Was the payment made in free foreign currency?

A. I believe not. I do not think that was possible.

Q. Was there not, between Brazil and Germany, an agreement on the basis of which the payments were to be made through the respective central banks in such a form that the importers paid the bills to the central bank and the exporters were paid from these sums?

A. As far as I recall, all payments were made through the central bank.

Q. Do you know that at the beginning of the war, trade with South American countries was no longer possible because of the blockade?

MR. SPRECHER: Mr. President, we thought that by introducing an affidavit by this witness, who merely looked at cards and recorded what he found on those cards in the files, we would be able to save a lot of documentation. Now this witness testified in no way in these affidavits, he gave no information into these affidavits, except what these cards show, as shown by his tabulation, and we feel that if we had introduced the documents which we had obtained from this witness, or photostatic copies thereof, rather than submitting a table, there would have been no cross examination along this line now or instead the witness would have been called during the defense's case, or perhaps a much better informed witness on some of these things would

have been called. I only bring this up because I think this witness is merely testifying in his affidavit, to questions of calculation which he has recorded. Questions on cross examination which go to whether or not he has done that correctly, would be entirely proper, but questions which go beyond it with respect to how payments were made abroad, whether or not there were agreements with Brazil concerning that matter, etc., I submit are beyond the scope of cross examination and it doesn't particularly encourage us to think that by this means of shortening the documentation, we have actually succeeded in expediting the presentation of the material to Your Honors.

DR. HENZE: Mr. President....

THE PRESIDENT: Let the Tribunal note that in the Document NI-9776, under II, the witness does go beyond the statement of merely recording of the figures and makes some statements about how these foreign transactions were handled. True, it is not very elaborate. Pretty simple, but that might warrant some very brief cross examination as to what he knows about the matters stated in that paragraph. Now, if counsel for the defendant will limit his cross examination to bringing out the facts regarding those matters, it would be proper.

On the other affidavit, 9777, that does not purport to be anything except a mathematical calculation from records, about which this witness has expressed no opinion whatever, and the only inquiry there would be the accuracy of his calculations whether he got what belongs in it. Perhaps that will help you in conforming to the Tribunal's ideas of the proper scope of this cross examination.

DR. HENZE: Mr. President, I merely wanted to ask some questions on Affidavit 9776. Questions which I believe are within the limits you have indicated.

THE PRESIDENT: Very well.

BY DR. HENZE:

Q. Witness, is my assumption correct that, at the beginning of the war, as the result of the stoppage of trade, payments between these countries which you list were also stopped?

A. As far as I know, yes.

Q. Is it true that later the agencies in these countries received substantial sums of money from sales of goods from their large stocks?

MR. SPRECHER: I think that's clearly beyond the scope.

THE PRESIDENT: It's beyond the scope of anything the Tribunal sees in that affidavit. There are only two or three statements of fact contained in the affidavit aside from the tabulation and they're found under I, in which he states what his duties were, and II, and he makes some brief reference to the transactions to which these matters relate. A very, very simple affidavit.

Objection is sustained.

BY DR. HENZE:

Q. Witness, I should like to ask you one more question.

Was the purpose of these payments to the Embassies to bring the sums realized on sales to Germany since, as a result of the war, normal means of transfer were closed?

MR. SPRECHER: Objection.

THE PRESIDENT: Objection sustained.

DR. HENZE: Then, I have no further questions.

THE PRESIDENT: Any further cross examination?

Any redirect examination?

MR. SPRECHER: None, Mr. President.

THE PRESIDENT: The witness is excused.

MR. SPRECHER: As the next witness, the prosecution calls Hans Bannert.

THE PRESIDENT: Will the Marshal bring in the witness just called, please?

MR. SPRECHER: There's only one affidavit involved, Your Honor, and that's NI-8149, which is Prosecution Exhibit 850. It's the first document in Book 47. Page 1 of both English and German, and before we start, could I ask Your Honors to take the affidavit because the prosecution is going to withdraw certain parts of it, with your permission.

THE PRESIDENT: Go ahead.

Mr. Witness, you may be seated for the time being.

MR. SPRECHER: On the English book page 3, which is also the mimeographed copy page 3, just after the beginning of page 4 of the original which begins "Erich von der Heyde", the prosecution would like to strike from there down to paragraph 5 on the next page. I think that's marked as paragraph 4 in the German and, by mistake, it hasn't been marked as paragraph 4 in the English, but it should be marked paragraph 4, and all paragraph 4 is knocked out, is withdrawn.

THE PRESIDENT: Very well.

The witness will now stand and be sworn, raise his right hand, say "I" and state his name.

THE WITNESS: I, Dr. Hans Bannert...

THE PRESIDENT: And now repeat after me:

"Swear by God the Almighty and the Omniscient, that I will speak the pure truth and will withhold and add nothing."

(The witness repeated the oath.)

The witness may be seated.

MR. SPRECHER: Mr. President, I wanted to indicate one correction in the English which is perfectly correct in the German, and that is just before page 3 of the original,

four lines up, it says "Dr. (name illegible)". That should all be stricken. That is, "Dr. (name illegible)" and for it should be substituted "B.d.K.A." which means the office of the commercial committee. "B.d.K.A.", office of the Commercial Committee.

(HANS BANNERT, a witness, took the stand and testified as follows):

DIRECT EXAMINATION

BY MR. SPREDHER:

Q Witness, please state your full name for the record once
more.

A Dr. Hans Bannert.

Q And your present address?

A Michelstadt, Braunstrasse 1.

Q And that is in Marburg?

A I used to live in Marburg. I am living in Michelstadt
now.

Q I am sorry. And what was your position before the German
collapse in 1945?

A I was Handlungsbevollmaechtigter for I. G. Farben Industry
in Berlin NW-7 in the Economic Research Department (VOWI) section
archives, statistics of firms and banks.

Q Now do you have before you a copy of the affidavit, Exhibit
850, MI-8149 which you gave to investigators representing the Prosecution?

A Yes.

Q Do you have any corrections which you feel important to
make at this time?

A No.

MR. SPEICHER: No further questions.

THE PRESIDENT: The Defense may cross-examine the witness.

DR. BACHEM: Bachem for Dr. Ilgner.

CROSS EXAMINATION

BY DR. BACHEM:

Q Dr. Bannert, on the first page of your affidavit you say
that the organization headed by Dr. Ilgner was considered by him as his
central commercial direction of the entire I. G., and that, in fact, it
actually performed this function to a considerable extent. From what
time on were you employed by I. G. Farben Industry?

A From 1927 on.

Q Thanks to your special activity in the archives did you not have very good insight into the organization of I.G.?

A Yes.

Q Then you must know that the sales combines of I. G. were self-contained, independent sales organizations which were very concerned about their independence?

A Yes.

Q Dr. Bannert, would you please wait with your answer until the translation of the question is finished? Otherwise the Tribunal will not be able to understand your answer. Do you not believe, Dr. Bannert, that your formulation which I read before, that is, that I. G., Berlin NW/7, was considered a central commercial management of the entire I. G. was not quite correct?

A It is not quite correct insofar as by "commercial" I do not mean sales but a central financial commercial direction.

Q But this limitation has to be made?

A Yes.

Q Because in your affidavit it sounds as if NW/7 had the commercial management of the entire I.G. Do you concede that?

A Yes. That was not intentional. It was to be understood with the restriction I have just mentioned.

Q Then in the same paragraph that we have just been discussing, you mentioned the newspaper clippings and the collection of business reports, annual reports and similar things which were kept by your department. You say that these clippings were given to Geheimrat Schmitz and Dr. Ilgner in folders. Is it true that in this statement you were thinking of the first years of VOMI from 1927 to 1931 approximately?

A No. I was thinking of the entire period.

Q But were these clipping sent specifically only to Geheimrat Schmitz and Dr. Ilgner?

A No. They were double folders for the individual offices, secretariats, and so forth, for example, the foreign currency departments, where questions of foreign currency, rates of exchange, etc., were recorded. We had instructions that they were sent in two copies to the management and to the individual offices.

Q Then it is correct if I say that this was general information given out by your department?

A Yes.

Q And then you also say concerning this clipping service that it was very extensive, and I quote now: "As the I. G. both at home and abroad was interested in practically all industry and finance questions as well as in the political questions which underlay them."

Dr. Bannert, in such a large concern as I. G. Farben was it not a matter of course that it was interested in all such questions?

A Yes.

Q The interest in the political questions which underlay these economic questions existed long before 1933?

A Yes, of course.

Q You then go on to say in this affidavit that in 1929 when the archives were extended and made into the Vowi proper there was the intention to have general economic research work done; is it not a fact, Dr. Bannert, that, for example, a correct judgment on currency developments cannot be carried out without research on the domestic economic situation of the country concerned?

A No, this is not possible.

Q To pick out one example I should like to ask you whether you recall that VCI on the basis of detailed studies, in the spring of 1933, did some work on expected developments of the American dollar?

A I know the fact. Whether that was in the spring of 1933 or earlier or later, I cannot say at the moment.

Q I was not interested in that so much as in the fact itself. Do you recall, Dr. Bannert, that Dr. Ilgner, as head of the Central Finance Administration of I.G. on the basis of this research work by VOMI made dispositions with respect to amounts receivable and invoicing of I.G. which saved the I.G. the loss of 30 million marks?

A Yes, I know that.

Q Then there were very practical business reasons which prompted Dr. Ilgner at that time to give VOMI the assignment of such extensive economic analyses and prognoses, is that not correct?

A Yes.

Q Dr. Bannert, in paragraph I of your affidavit again you have made the following statement, and I quote, "All of this was at the wish of Dr. Ilgner, who wanted to create both within and without the I.G. a platform for his enormous ambition." Dr. Bannert, since we have just shown by one example, and we could give many others, that the work of VOMI was a very extensive business interest of I.G., do you want to maintain this statement I have just read?

A No. This sentence was intended to express that only the great initiative of Dr. Ilgner made it possible in a relatively short time to set up such machinery for business matters, which was absolutely necessary for the I.G.

Q But you concede that the way you have made this statement here leads to different conclusions?

A Yes.

Q I should like to ask you only one more question on this subject; this formulation, Dr. Bannert, has appeared in almost exactly the same words in a number of different affidavits; therefore, I should like to ask you whether you made this statement in this form yourself or whether it was suggested to you?

A The formulation was suggested to me.

Q By whom?

A By the interrogator, Dr. Verber.

Q In the same paragraph I of your affidavit you go on to say that the Laenderreferat of VOWI as an organization was founded in 1937, although in practice it had been in existence since 1930. Frankly, I don't quite understand the meaning of this sentence. Could you please explain it?

A As an organization, VOWI consisted of three sections, according to subject matter: marketing and currency questions, chemical market, and financial and business archives. The men working in these three departments had a side-line, so to speak, questions concerning foreign countries, to deal with, which later turned out to be in expedient, and we created a special department for foreign countries' observation, where all questions concerning a country were worked on by this Department, and if some question, -- for example, a currency question was raised, then the foreign country referent would collaborate with the currency specialist and work out a report on, let us say Hungary.

Q Then I understand you correctly, Dr. Bannert, that the duty of the Foreign Country Department existed in practice from 1930 on, and that later it was merely a question of an organizational change?

A Yes, that is correct.

THE PRESIDENT: Unless you are very nearly through, we had perhaps better suspend for the day, in order to give the Prosecution an opportunity to tell us what to expect tomorrow.

DR. BACHEM: I believe, Mr. President, that I will not be able to finish in time. I should like to go on tomorrow morning.

THE PRESIDENT: That will be satisfactory.

MR. SPRECHER: Our plan would be to go on with witnesses tomorrow, Your Honors, and notice has been given concerning all the following: Mayer-Wegelin, Guenther Schiller, Emil Ehmman,

29 October 47-A-ATD-24-6-Haloy (Int. von Schon)
Court 6, Case 6

Rudolf Huehnerman, Winkler, Karl Mueller, Schmied Lossberg, Albert Eckert, and Anton Reithinger. We will try to follow that order, generally speaking, but we are not in a position to commit ourselves to it.

THE PRESIDENT: Very well. Are there any other announcements?
If not the Tribunal will recess until 9:30 tomorrow morning.

THE MARSHAL: The Tribunal will be in recess until 9:30 tomorrow morning.

(Thereupon a recess was taken at 1630 p.m. until
0930 a.m., 30 October 1947.)

Official Transcript of the American Military Tribunal
Number 6 in the matter of the United States of America
against Carl Krauch, et al, defendants, sitting at
Nuremberg, Germany on 30 October 1947, 0930, Justice
Shake presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal VI.
Military Tribunal VI is now in session. God save the United States of
America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Are the defendants present?

THE MARSHAL: May it please Your Honor, all the defendants are
present.

THE PRESIDENT: Any preliminary announcements from the Prosecution?

MR. SPEECHER: None, Mr. President.

THE PRESIDENT: From the Defense?

The Defense may proceed with the examination of the witness.

HANS BANNERT - Resumed

CROSS-EXAMINATION (Continued)

DR. BACHEM (Counsel for Defendant Ilger): I should like to
continue with the examination on Exhibit 850, NI-8149, English and
German books 47, page 1.

BY DR. BACHEM:

Q Dr. Bannert, in paragraph 2 of this document, on page 3 of the
German, you say, and I quote: "We of course had similar information
on I.G. plants, including also exact location maps." You then add that
these were of course never published.

Now, will you tell me whether you remember that a location map on
I.G. interests in southeastern Europe was prepared at one time which was
published and made known in wide circles?

A I.G. interests in southeastern Europe?

Q Yes.

A I cannot remember it at the moment.

Q Do you want to maintain this sentence which I have just read in
your affidavit just as it is stated here? Or do you not believe that

such maps showing the I.G. interests and participations were also published—and not, as you say, "never published."

A To explain this matter may I say the following? Here I speak of exact location maps in the sense of location maps of individual plants—not maps such as, for example, in the Business Report of I.G. Farben of the year 1929, where the various plants and their production location were indicated on the map showing the place where the plant was situated. In this sense here, exact location maps which were not published: I mean plans of the individual factories which were not intended for the general public.

Q Dr. Bannert, would you please turn around; behind you there is a map. Those are location maps such as you prepared in the VOWI.

A Yes.

Q You are not speaking of such maps in your affidavit at this point?

A No, not at this point. I mention such maps later.

Q Thank you. You then speak of the wide distribution of VOWI publications, and you say that, among others, all government agencies were supplied. I should like to ask you whether this is not a rather sweeping statement. Was it not true that a number of government agencies, for special reasons, because the VOWI obtained material from these agencies, or similar reasons, received material prepared by VOWI?

A You must not understand this sentence so summarily. I may point out that the following clause qualifies it. "All government agencies which displayed any interest in them."

Q Then it would have been better to say those government agencies which were interested?

A That is what I mean.

Q Dr. Bannert, from this formulation in your affidavit one could easily gain the impression that the supplying of the government agencies with VOWI material was principally distribution of VOWI material. Was it not true that VOWI material was generally available and was also sent to private industry: to banks in Germany and abroad?

A I am sure that private persons were in the majority among the list of those who received our material.

Q Then, Dr. Bannert, on page 2 of the original of your affidavit, page 4 in the German, you speak of a shipment of reports to interested parties; and as examples you mentioned the I.G. liaison men reports. At the same time you say, however, that these liaison agents reports were sent by the BDKA only to I.G. offices.

Can you clarify what I consider a contradiction in this statement?

A I did not quite understand your question.

Q I will repeat it. You say at the beginning of the sentence that Dr. Ilgner drew up lists of people who he thought might be interested in the publications, and then you say he sent them to those people. By way of explanation, you add, "for instance, the I.G. liaison agents' reports", and I quote now: "which came first of all to the office of the Commercial Committee. They were sent from there only to internal I.G. agencies."

Quite frankly, I do not quite understand why the liaison agents' reports are mentioned as an example here because you say yourself that they were sent only to internal agencies of the I.G.

A During the interrogation I was asked about that question of distribution in general, and I gave my testimony on that subject, and then I was asked, and was told, that the liaison agents' reports were specially interesting; and I was asked what was done with them.

Perhaps I should have been more explicit at this point and should have mentioned other examples of other publications put out by the VOWI. What happened with the reports of the I.G. liaison men--and I pointed this out during the interrogation, if I remember correctly--it was not done by me nor by the VOWI. What I said on this point was my opinion or assumption.

Q But you have no exact knowledge?

A No, I have no exact knowledge of this subject.

Q You go on to say in the same connection that the I.G. liaison

agents' reports for distribution outside of I.G., were edited by VOWI. Is that actually true, Dr. Bannert? Were these reports merely edited or was it not the case that the I.G. liaison agents' reports were material for the VOWI just like publications of other institutes: newspaper articles, scientific articles, and so forth?

A Yes; that is correct; but we had a great deal of trouble with these liaison agents' reports. The men were supposed to report on the situation at the moment, and specifically on currency questions, production, and so forth. We found out that in very many cases they gave us figures on the basis of newspaper reports which did not agree with the official statistics in the weekly or monthly reports of the various countries which we received; that they gave a false picture.

Therefore, after some time—I don't remember exactly what year it was—these reports, before they were sent on, were checked so that the worst mistakes that they contained could be corrected.

Q Dr. Bannert, from what you have just said may I conclude that the I.G. liaison agents' reports were quite incomplete and often contained false material, and, in many cases, were of very little use—at least as far as concrete information was concerned?

A I said already that we had a great deal of trouble with these reports. For us, as a scientific department, the information could be used only rarely, and it was for this reason that the plan was made for, later on, to have specially trained men assigned to this work to improve conditions.

Q Then, in conclusion, I may say that the reports, as you received them, were of very little use?

A Yes.

Q Dr. Bennert, you then go on to say in the same connection something about the addressees to whom the various reports were sent, and you mention, among others, the Military Economic and Armaments Staff. Will you please tell me when that is supposed to have been?

A As far as I am informed, our collaboration with the Military Economic and Armament Staff began after the outbreak of the war; and only from that time on am I informed that the liaison agents' reports were sent to the Military Economic and Armaments Staff. Whether all of them were sent there, I do not know; whether they were always sent there, I do not know either.

Q In any case, I may establish the fact that these reports were sent to the Military Economic and Armament Staff only after the outbreak of war, as far as you remember?

A Yes.

Q One brief question in this connection. You know that some, or a considerable part, of the associates of VOWI were called upon to work for the Military Economic and Armament Staff when the war broke out?

A Yes.

Q Then you say, Dr. Bennert, right after the sentences we have just been discussing, that in principle it was Dr. Illgner who in all respects decided on the distribution list. Do you consider this formulation with all its implications as quite true?

A Yes, I believe it was true that in general the management decided, but that in individual cases the department heads were given considerable latitude. On principle, for example, it was decided that all members of the Vorstand and the members of the Central Committee were to receive, let us say, our World Economic Pocketbook and also the Weekly Economic

Q Very well, Dr. Bannert, that is the internal distribution of the important VOWI reports. What I am interested in at the moment is the distribution outside of IIG. I should like to ask you whether it was actually the case that Dr. Ilgner for each VOWI publication or even for most of the VOWI publications decided himself to whom these publications were sent, and to whom they were not sent?

A Well, in practice we had to submit the lists a few times since the Vorstand, for example, in the case of our Economic News, had been asked whether it was necessary for it to be distributed to outside agencies in such large numbers. These lists were checked very carefully by Dr. Ilgner, as was his nature. The procedure was usually such that in the course of a month more and more names were added to the list. In general, that was decided by the head of the VOWI or by the head of the department which was suggesting that Mr. Mueller or Mr. Schulz was to receive this or that publication.

Q Perhaps I may sum up your testimony and say that Dr. Ilgner or that the management decided the general outlines of distribution, and from time to time checked the distribution lists; but that in detail and with individual publications the distribution was left to the VOWI, is that correct?

A Yes.

Q Dr. Bannert, on page 5 of the German—I believe it is the end of page 3 of the original—you say that the VOWI on behalf of the Wehrmacht, with the aid of an air photograph, helped to determine bomb damage.

First of all, I should like to ask you: this was after the VOWI gentlemen were drafted into service for the Economic and Armament Staff?

A Yes.

Q Was the VOWI in a position and capable of carrying out such instructions?

A No, and when this question was brought to us we passed it on to someone else.

Q Thank you; and you say, "I assume with certainty, that such technical questions were more often put to the Vermittlungsstelle W than to us." Is that merely an assumption, or do you know that?

A That is an assumption.

Q Dr. Bannert, you also say that the Military Economic and Armament Staff collaborated with all other pertinent institutes.

Do you mean to include the Economic Research departments of other firms, banks, and so forth?

A Yes; not only of banks, but also, for example, the metal company, the Economic Institute in Kiel, the Institute for World Economics, in Hamburg, and so forth.

Q So that it was nothing unusual, this collaboration with the Military Economic Staff? It did not affect merely the VOWI of I.G. Farben?

A No.

Q Now, Dr. Bannert, I come to the last paragraph of your affidavit, Number 5.

You say here that in the years 1937-38 studies were again made on the chemical industry of Austria and Czechoslovakia. Do I interpret this statement correctly if I state that in connection with the business interests of I.G. Farben in the southeastern European countries such studies had been made from about 1931 onwards?

A Yes. That practice did not start in 1931 but was done even earlier. My first work on the European chemical industry was done in the years 1927-28.

Q Is that true, Dr. Bannert, that such studies of VOWI were, from time to time, brought up to date, supplemented?

A Yes. That was the important part of our work. First, there was one basic study, and after that things were constantly kept up-to-date. And at the moment when they were needed the most recent information could be written up.

Q Do you still remember, Dr. Bannert, whether in the years which

you have mentioned—1937 and 1938—VOWI had any assignments from the management of I.G. to supplement these studies, or whether these supplements and the new work was done on VOWI's own initiative?

A I cannot remember exactly today. In general, I should like to say that in all these years when the southeastern European area was of especially great significance for our firm as an export area, according to the new Schacht Plan, we ex officio—that is, as a department, on our own initiative, as a matter of course—in order to do our duty, worked constantly on these matters, and we were always quite proud that we were always ready to supply material. We sometimes had to do so within twenty-four hours if there was a trip, or something of that nature, and we were always capable to comply with such requests and to furnish up-to-date material.

Q. Then one cannot say that this was anything special, that this work was done anew in the years 1937 and 1938?

A. No.

Q. You then say, Dr. Bannert, that in the case of Austria you handed this material concerning different countries over to Dr. Ilgner's office and that Dr. Ilgner added the further studies for the negotiations which, as you regard them, led to the acquisition of the Austrian chemical industry. Can you tell me what you mean by this sentence? What material was added?

A. For example, the question of I.G. turnover was added. As the Economic Research Department we did not have these figures available. We had drawn up a study on the foreign trade relations with Austria, on the plants in Austria, the production, capital, equipment, etc. It was the general VOWI material, while now it was supplemented by the specific current material worked out by the competent departments. I believe the figures on turnover, etc. were added by the office of the Commercial Committee and WIPO put on the contract matters, etc.

Q. Dr. Bannert, was this anything very special that was done in this specific case or was it not so that when the I.G. men went abroad for any kind of negotiations they were always given such complete figures by the VOWI and by the B.d.K.A.?

A. Yes.

Q. Now, only one more question, Dr. Bannert. You say say "acquisition of the Austrian chemical industry." Do you know that the Skoda-Wetzler and the Carbide Werke Deutsch-Matrei which were acquired were only a small part of the Austrian chemical industry?

A. Yes, I know that. The expression here is perhaps

a little sloppy.

Q. Thank you. No further questions.

THE PRESIDENT: Any further cross examination of the witness?

Any redirect?

MR. SPRECHER: Yes, Mr. President.

REDIRECT EXAMINATION

BY MR. SPRECHER:

Q. Witness, on cross examination yesterday afternoon, your attention was directed to one sentence, which is on the first page of your affidavit, and that sentence states, in connection with the formation of VOWI and certain of the research that was done in NW 7, the following:

"All this was at the wish of Dr. Ilgner who wanted to create, both within and without the I.G., a platform for his enormous ambition."

And, after that sentence was read to you, you were asked if that was your formulation and, if I understand you correctly, you said it was not your formulation. Is that right?

A. The entire statement which I signed here was given to me in the prepared text and I made certain corrections. It was taken from the records of my interrogation and, in the form in which it is summed up here, is merely an excerpt. If I remember correctly, I believe we discussed this question of the personal ambition of Dr. Ilgner once or twice during the interrogation.

Q. Well, witness, what you have described is often done and there is no secret about that here, but I was just interested in this case as to whether or not these words were your very words or whether, in this case, these were the words of the interrogator who happened to ask you if

these words were true or not. Do you remember or don't you remember?

A. If you ask me about individual words, perhaps you could get that from the records and read the passages to me to recall them to my memory.

Q. Thank you for the suggestion. I think that's what we will do. This is from an interrogation of the 14th of May 1947 by Mr. Verber, and I have given the original German copy to the interpreter who will read to you the German and I will read the translation:

"Q. I would like to start where we stopped last time. That was the question of the Abwehrbeauftragten and the matters he passed on.

"A. This meeting took place after the outbreak of war. A business connection with the Wehrwirtschaftsstab did not exist on our part."

I think I can skip down one or two answers. No, I can't. I'm sorry. I'll have to go right on.

"That is to say that automatically these matters would have to be passed on. This does not preclude that sometime, on request, these things were handed over. I assume that Dr. Ilgner, for example, knew General Thomas and sent those things to him.

"Q. Do you have any reason for this assumption?

"A. No, not that, but whom didn't Ilgner know.

"Q. Do you mean to say whoever knew Ilgner received those things that he wanted?

"A. Yes. That was a case of his being a busy body.

"Q. For example, his nomination as Wehrwirtschaftsstab-Fuehrer in 1938. Does this have any connection? Didn't he become Wehrwirtschaftsstab-Fuehrer in 1938 through Thomas?

"A. Yes, that's possible. He always attempted to

create a platform for his self on the basis of his desire for recognition. His position within IIG. was always very difficult and therefore he always attempted to have a large radius of his activity."

Do you recall that part of the interrogation now?

A. Yes.

Q. Now, let me go to another interrogation of the 7th of May where you were asked about VOWI and how you happened to include certain observations concerning currency and business trends in that organization, and then comes the question:

"That was done on whose wish?

A. The guiding spirit in all these things was Dr. Ilgner who was in a very difficult position as he was a very ambitious man and wanted to create a platform for himself that would enable him to give something to the people he had to work with."

Do you remember that interrogation also?

A. Yes.

Q. So much for that point.

Dr. Bannert, tell us whether or not you personally received yourself all the Verbindungsmaenner reports?

A. I personally did not receive all reports.

Q. And why was that?

A. In general, these reports were in very general terms, and for questions which I had to deal with in the course of business, they brought very little new information.

Q. All right. Who decided which reports you were to receive and which ones you weren't to receive? Do you know that?

A. May I ask you something? The reports were not sent to any person, but to the department. The VOWI was

supposed to receive all the monthly reports of the Verbindungsmaenner. The B.d.K.A. had to see to that, where these reports were received.

Q. Do you know whether the B.d.K.A., in face, did send you all the reports? That is, I mean not you personally but the VOWI?

A. I assume so.

Q. Now, who was Platzer from VOWI?

A. Platzer was head of the Department Currency and Business Cycle Observations.

Q. Do you know whether or not, before the war broke out, he gave VOWI reports to Thomas' group, that is, the Military Economy Office?

A. I do not know that.

Q. Well, did you say a little while ago or didn't you say a little while ago that these reports weren't given to the military authorities until after the war broke out?

A. Yes.

Q. This is an exhibit 819 which is already.....

Exhibit 819, Your Honors. That's in Book 45, English page 141, German page 200, under VII.

Witness, may I try to refresh your recollection in these minutes of the 7th of July 1938 of a mail conference in Berlin NW 7 which was under Krueger's chairmanship. Reference is made to the fact that "Platzer asked Krueger to agree to it that Antoni get in touch with the Military Economy Office, Vehrwirtschaftsstelle, directly from Frankfurt and put the material requested at his disposal. Upon Krueger's inquiry Platzer reports that Dr. Weiss regularly receives these regional reports monthly."

Now, in connection with receiving these regional reports, tell us whether or not you know if they also received

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these more general reports of VOWI? Before the war, I'm
talking about.

Well, if you don't know, just say so.

A. As I said during my interrogation, in an individual case, because of a personal friendship or some other reason, which was sent to all other agencies, some report might have also been sent to a military agency. I consider it quite possible.

Q. Do you recall whether or not, before the occupation of the Sudetenland, that VOTI made reports concerning Sudetenland holdings by Czechoslovakians?

A. I did not understand your question. Would you please repeat it?

Q. I'll repeat it for you.

Do you recall whether or not VOTI made reports, before Munich - that is, before the 30th of September 1938 - concerning Czechoslovakian mineral industries with reference to Sudeten-German participations?

A. Sudeten-German mineral industry? Whether such questions were dealt with concerning Sudeten-German mineral industry, I cannot say. We had so many subjects to deal with in the course of business. This work would not have been anything unusual because the relationships between various concerns had to be clarified and it was constantly necessary to determine where or by whom the stock was held.

Q. I show you Exhibit 654 which is NI 6359, Book 47, English page 13, German page 43, and here's a report. This is a report which you personally sent to the office of Sparta I on the 13th of October 1938 and you enclose, as I understand it, some reports from September by VOTI, and if you will look under Section II, VOTI Report 3099, you have the report I just referred to?

Does that refresh your recollection?

A. 3099?

Q. Right.

A. Here's..... I find 3097. Is that what you mean?

Q. The next one.

A. 3093. Cement imports to Iraq?

Q. Well, I find one just in between the two you have just

mentioned.

MR. KAUFMAN: 3097. I think that's the report.

THE WITNESS: 3097?

MR. KAUFMAN: Is that under Division II?

WITNESS: Czechoslovakia textile industry with special consideration of Sudeten-German participation?

THE PRESIDENT: Mr. Prosecutor, you're taking up quite a bit of time and I wonder just what you're driving at. It is not very apparent what your object is with reference to this examination.

MR. SPRECHER: Well, I think the timing of this report in September of 1938 goes in in connection with the cross examination about the fact that these were very normal things which happened every day, some of these reports, and had no particular relations - I took the inference to be - had no particular relation to the foreign policy of the Nazi Government at the moment.

THE PRESIDENT: Very well. We're not undertaking to restrict you, but you're taking up quite a bit of time here and not getting any where so far as inquiry is concerned.

MR. SPRECHER: I'll drop that point, and I have no further questions.

THE PRESIDENT: Any further cross examination of this witness?

RECROSS EXAMINATION

BY DR. BACHET (Defense Counsel for defendant Ilgner):

Q. Dr. Bannert, to the first question which Mr. Sprecher just brought up, I should like to ask you the following. From the statements of Mr. Sprecher I gathered that you were interrogated for a considerable length of time and quite thoroughly by Mr. Verber. Is that true?

A. Yes.

Q. So that there was a long record, apparently, stretching over several days?

A. Yes.

Q. And from this long interrogation and this long record this affidavit consisting of 7 pages which we have here is an extract. Is that true?

A. Yes.

Mr. SPRECHER: I want to stipulate that this is right but that is customary procedure.

THE PRESIDENT: Go ahead, counsel. Your examination is proper.

BY DR. BACHTEL:

Q. So I am no doubt correct in my conclusion that you wanted to tell me yesterday that perhaps the words in your affidavit were used in your interrogation, but that, because this is an extract, the sentences are put in such a context that the meaning is no longer the same as the meaning you intended during the interrogation?

A. Yes, and from the reading of the record just now, you have been able to see two important passages in detail.

Q. Now, Dr. Bannert, a question on the liaison agents' reports. Do you know that Dr. Ilgner, as well as all other offices of the I. G., received only extracts from the liaison agents' reports which were prepared by the B. d. K.A.?

A. I cannot remember that.

Q. Do you know whether the VOMI received the entire reports, that is, the original reports, or did the VOMI receive the B. d. K. A. excerpts?

A. I cannot say.

Q. Now, my last question. Mr. Sprecher read you an excerpt from the Mail Conference of Berlin N° 7 of the 7th of July 1938. Dr. Bannert, can you remember this incident? Shall I read the text to you once more?

A. Please do.

Q. I quote:

"Platzter asks the approval of Krueger for Antoni to contact
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the Military Economy Office directly from Frankfurt and supply the requested material. On inquiry from Krueger, Platzer reports that Dr. Weiss regularly receives three country reports monthly."

Dr. Bannert, do you know who this Dr. Weiss is that is mentioned here?

A. From the context I would assume that it was a Dr. Weiss in Frankfurt.

Q. Of the I. G. in Frankfurt?

A. Yes, of the I. G. in Frankfurt. We had several men named Weiss.

Q. Dr. Weiss from the Directorate Department Chemicals in Frankfurt?

A. Yes.

Q. Not a man of the Military Economy Office or any similar office?

A. No. I think that is quite clear from the record that he was an I. G. man.

Q. Thank you.

Now, can you remember the incident mentioned in the preceding sentence? Would you agree with me if I say that this was a single inquiry from an official agency which had to be answered by the I. G.?

A. Yes.

(Dr. Bachem)

Q. Then, Dr. Hannert, you were just questioned about the Sudeten reports. I should like to ask you whether the nature of the work of VOWI did not make it a matter of course that the VOWI also dealt with questions affecting the Czechoslovakian situation.

Because in the summer of 1938 the newspapers were full of questions concerning the Sudetenland.

Isn't it true that the VOWI attempted to be as timely as possible, and to have all reports adapted to the actual situation?

A. Yes, and I explained that before in detail.

Q. So that from the fact that VOWI put out such a report on the Sudeten German Textile industry, as Mr. Sprecher mentioned, the fact does not indicate that the VOWI or I.G. management knew that Hitler was planning to incorporate the Sudetenland into Germany?

A. No, that was quite independent; our work was exclusively adapted to the interests of I.G. Farben and as far as other the offices are concerned, which received our reports too, that, from our point of view, that was a by-product of our work, a sort of further utilization.

DR. BACHMANN: Thank you, no further questions.

THE PRESIDENT: Is there any further cross-examination or re-direct examination of this witness?

None being requested, the witness is excused from further attendance.

MR. SPEECHER: The next witness will be Mayer-Wegelin.

DR. MAYER-WEDELIN, a witness, took the stand and testified as follows:

BY THE PRESIDENT: This witness will remain standing, raise his right hand and state his name.

WITNESS: Dr. Heinz Mayer-Wegelin.

THE PRESIDENT: The witness will now repeat the oath.

I swear by God, the Almighty, the Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath).

THE PRESIDENT: You may be seated.

DIRECT EXAMINATION

DR. HEINZ MAYER WEGELIN

BY MR. NEWMAN:

Q. Will you please give your present address?

A. Alt-Weilenau, Kreis Kusingen.

Q. Will you briefly describe your position in I.G. Farben starting with the beginning of the Year 1938?

A. In the year 1938 I was procurist, a member of the Legal Department, Chemicals. I was an adviser on legal and contractual matters, especially in the field of inorganic products and light metals.

Q. Where was your office?

A. My office was in the I.G. Farben industry building in Frankfurt on the Main.

Q. Do you have the following affidavits before you, I am quoting by the subject matter, and by the NI number, and exhibit number.

First, your affidavit on Austria. That is our Exhibit 1104, document NI 8583. This, your Honors, is our English book 53, page 113, and page 155 of the German book. Is this affidavit before you, in the German language?

A. Yes.

Q. Then your interrogation on Czechoslovakia, our Exhibit 1115, that is NI 8580; our book 54, page 70, and also page 70 of the German book. Is this before you again, in the German language?

A. Yes, I have it; my Number is 8582.

Q. The correct number is 8580.

Then your affidavit on Alsace-Lorraine; that is our Exhibit 1238, NI 8581; the English book is 62, page 38, page 57 of the German book?

A. Yes.

Q. The last affidavit, on Norway, is our Exhibit 1211, NI 8582, English book 65, page 102, of the German book at page 162. Is this before you?

A. Yes.

Q. Has there been any discussion between you and the representatives of the prosecution during the last days on these affidavits?

A. Yes. The day before yesterday I talked to you in your office.

Q. Coming first to the affidavit on Austria, which was our Exhibit 1104, is there anything you would like to supplement, or to correct in connection with this affidavit?

A. On page 2 I should like to add a sentence.

Q. Will you kindly tell me the exact place where you would like me to insert this phrase?

A. At the end of the first big paragraph after the words, "payment of purchase price."

Q. This is page 2 of the English affidavit, 4th line, after the words, "technicalities of payment of the purchase price."

Please go ahead.

A. I would like to insert the following sentence: "I myself did not conduct any negotiations concerning technicalities of the payment of the purchase price, but talked to Mr. Fround about his suggestion, in order to examine the legal consequences and the consequences as far as taxation was concerned."

Q. Is that in connection with this affidavit on the preceding page?

A. Yes.

Q. Is there anything else you would like to supplement in case of your Austrian affidavit?

A. No.

Q. Then in the case of the Czech interrogation which was our Exhibit 1115, would you like to supplement or to correct this interrogation?

A. No.

Q. We then direct you to your affidavit on Alsace-Lorraine, our Exhibit 1238. Do you have any additions or corrections here?

A. On the second page I should like to correct the following: About

the 7th line on the 2nd page, when I am talking about Air Liquide plants, and Oxhydrique, "No negotiations were conducted with those former owners nor were their interests considered by us."

Q. Please go ahead.

A. After signing this affidavit, I talked to Mr. Macherer in Munich, a member of the Vorstand of the Linde's-Eis Maschine", and we discussed the question. We went into his files and followed the questions up, and we discovered that in the year 1940, Linde's-Eis Maschine had had correspondence with a Swiss lawyer who represented Swiss stockholders of Air Liquide to determine whether Air Liquide would be willing to give up an oxygenation plant in Alsace-Lorraine. I do not remember exactly which plant was concerned. It might have been Siegestheim. I am certain only that it was a plant which had previously been evacuated.

The Swiss lawyer inquired of Air Liquide, and elicited the information that Air Liquide had no objection to leasing the plant, but that the Vichy government did not wish the ownership to be transferred.

I assume that I.G. at the time was informed about these negotiations and the result, and I do not want to exclude the possibility that I too, when I studied the reports later, had this brought to my attention.

Before my conversation with Mr. Macherer, I had not remembered it, however.

Q. You made it clear by studying the files later; you are referring back to 1941 or whatever it was, at that time?

A. In 1940 I was in the army, and in January of 1941, I returned. I was able to read the records of these transactions only later.

Q. Is there anything in connection with this affidavit you would like to add or correct?

A. No.

Q. Your affidavit on Norway, our Exhibit 1211, are there any corrections you would like to make?

A. I should like to make two small additions. At the beginning of

the second paragraph it says, "The I.G. was also represented by Mr. Haefliger and Dr. Moschel", I should like to add, "and Dr. Luch".

Q. That your Honors is at the beginning of the paragraph after the words, "Dr. Moschel."

A. In the fourth paragraph before the last sentence I should like to insert, "I myself was present when this promise was made."

Q. Is that all you would like to add here?

A. Yes.

MR. NEFFAN: Then I have no further questions.

THE PRESIDENT: Is there any cross-examination?

CROSS EXAMINATION

DR. HAYER-NEGTLIN

BY DR. ASCHENAUER (counsel for the defendant Gattineau):

Q. Witness, you are a lawyer?

A. Yes.

Q. On the basis of your knowledge and experience you are able to evaluate the effects of organizational measures in the acquisition of plants?

A. The legal effects, yes.

Q. Do you have any knowledge in the tax field?

A. Yes, but I am not a tax specialist.

Q. In 1938 you frequently had to deal with legal questions arising from reorganizations of Austrian interest in I. G. or Dynamit-Nobel Treisdorf?

A. Of the I. G., yes. Regarding Dynamit-Nobel only in connection with the transfer of shares of Deutsch-Matrei.

Q. Mr. President, this is Exhibit 1104 I am talking about. You also participated in various discussions in Vienna and Budapest concerned with the transactions of Carbid-Werk, Deutsch-Matrei and Oesterreichische Dynamit-Nobel?

A. In Vienna, yes. I was not present at the decisive conference in Budapest, but only afterwards in editing the agreement.

Q. Was Budapest free of German troops at the time?

A. Yes.

Q. Were the plants belonging to Carbid-Werk Deutsch-Matrei, Oesterreichische Dynamit-Nobel, A. G. big plants?

A. I do not know the plants of Dynamit-Nobel. I once saw the plant Ruckel of Deutsch-Matrei. It was a medium large factory.

I cannot judge its technical value.

Q. Witness, you say in your affidavit that Carbid-Werk Deutsch-Matrei and Oesterreichische and Dynamit-Nobel belonged 100 per cent to Dynamit-Nobel Pressburg, which in turn was owned 51 per cent by Dynamit-Nobel Treisdorf; a Hungarian Bank owned 30 per cent. Witness, do you remember that this was the Pester Ungarische Komerzialbank?

A. No.

Q. Do you recall that between Treisdorf and the Hungarian minority stockholders there was an agreement on the purchase of Deutsch-Matrei and Dynamit-Nobel A.G.?

A. I heard that mentioned.

Q. Since the majority stockholders and minority stockholders had reached an agreement on the transaction, was there also an agreement on motives?

A. I do not understand your question.

Q. Witness, between the majority stockholders and minority stockholders, there was an agreement on the transaction. I am asking you was there agreement on the motives?

A. I assume so.

Q. Witness, you say the participation in Pressburg was 1.2 million marks. Do you recall that in the two Austrian companies, the plant values were to a great extent amortized?

A. I do not know conditions in the Austrian Dynamit-Nobel. I do not recall the figures for Deutsch-Matrei in detail, but know that they had a considerable sleeping reserve.

Q. The plants had existed for some time, had they not?

A. I don't know.

Q. After the duties were paid and the price was adapted, a sharp decline in the price had to be expected?

A. That was often mentioned.

Q. The suggestion for the establishment of the price came

from Phillippe and Freund, at the administration of DAG, Pressburg?

A. Mr. Freund told me that the suggestion came from him.

Q. Witness, you write in your affidavit that participation of the two firms was 1.2 million marks. I ask you, what would a purchase price considerably above the price on the value of the books - what would that have meant from the point of view of taxes?

A. It would have been a profit on the books and if the company had no losses otherwise, it would have led to taxation.

Q. Did anyone concerned want that to happen?

A. No one likes to pay taxes.

Q. Why, didn't the Pressburg administration for this reason divide the purchase price of 3.6 million marks into 25 payments, just a payment of 25 installments, to save taxes?

A. The motive was certainly to save taxes.

Q. Who suggested this division of installments?

A. I don't know. I did not attend this meeting. I waited in the hotel with Dr. Kersten. After the meeting one of the men came back with notes, and in the hotel in my room, we formulated the agreement.

Q. Witness it says that the Czech Government refused permission, and that the I. G. complained to the German Government.

Do you know Dr. Bergemann of the Reich Ministry of Economics?

A. I don't remember.

Q. Do you perhaps know that Dr. Bergemann before 1936, was General Chairman of the mixed German-Czechoslovakian Government Committee for the trade negotiations with Czechoslovakia?

A. No.

Q. Witness, you said that after the division of Czechoslovakia and the occupation of Bohemia and Moravia by Germany, the Slovakian Government gave their approval. Was Slovakia occupied by the German troops?

A. I know nothing of that.

DR. ASCHENAUER: Thank you. No further questions.

CROSS EXAMINATION

BY DR. KRAUSS (Counsel for the defendant Friedrich Joehne):

Mr. President, I refer to affidavit of the witness of the 5th of June, 1947, Exhibit 1235, which is in Book 62, which refers to the lease or the purchase of Alsace-Lorraine oxygen plants.

Q. Witness, you supplemented this affidavit a while ago. I shall refer to this addition. Would you say that the establishment of contact with the Swiss stockholders was an attempt to establish contact with the owners of the plants, and to reach an agreement with them?

A. I assume so.

Q. Very well. Dr. Mayer-Negelin, in this affidavit you remark that the legality of the purchase of the oxygen plants in Alsace-Lorraine, seemed doubtful to you at the time. Will you please tell us of what nature your misgivings were?

A. My misgivings were that the authorization to transfer the property came from an agency which was not registered as the owner.

Q. Did I understand you correctly to say that your misgivings were of a purely formalistic, legal nature?

A. I do not remember the details, but I do remember that this was the source of my misgivings.

Q. Witness, did your misgivings refer only to the purchase, or only to the leasing?

A. No, not the leasing.

Q. I see. Now witness, in your affidavit, you say: "He". Who were these people who had these misgivings?

A. These oxygen matters were always dealt with by I. G. Linde, and the VSI.

Q. I mean the personnel.

A. With the I. G. such things were discussed first of all with Dr. Ludwigs, of the commercial side, and Professor Holler, of the

technical side.

Q. Witness, did you ever express your misgivings, especially did you express them to the Vorstand?

A. I don't recall doing so.

Q. I see. Dr. Mayer-Megelin, did you have any misgivings of a moral nature? Did you consider these negotiations spoliation or plunder?

A. No. We never wanted to enrich ourselves at the expense of previous owners, but we wanted to dissolve the dependency on the Chief of the Civil Administration.

Q. Do I understand you correctly that your remark is not to be interpreted as meaning that you considered the leasing or purchase by the I. G. as spoliation?

A. I cannot imagine that.

THE PRESIDENT: Counsel, unless you are very nearly through with your cross-examination, we shall have to interrupt it for our recess.

DR. KRAUSS: I have only a very few questions.

THE PRESIDENT: Would you prefer to finish before the recess?

DR. KRAUSS: I, personally, would prefer to have the recess now, Mr. President.

THE PRESIDENT: Very well, we will arise.

THE MARSHAL: The court will recess for 15 minutes.

AFTER RECESS

THE MARSHAL: Military Tribunal No. VI is again in session.

CROSS EXAMINATION (continued)

DR. MAYER-WEGELIN

BY DR. KRAUSS:

Q With the permission of the Tribunal I shall continue my cross examination.

Witness, you testified that you by no means deemed the action of Farben as spoliation or plunder or immoral. Were you also motivated in this opinion because Farben paid a very reasonable amount for the lease, and in the case of requisition, a reasonable purchase price?

A I do not remember the amount of the purchase price, or the amount of rent that was paid, and cannot give any judgment on that.

Q Dr. Mayer-Wegelin, is it correct that one of these plants had been completely dismantled at one time, and that large investments had to be made by Farben?

A I have no knowledge of my own on this subject.

Q Witness, do you know what determined Farben in the course of time to change over their endeavors to lease the plants into an endeavor to purchase the plants.

A So far as I remember, the tendency, as I already stated, existed to be no longer dependent upon the chief of the Civilian Administration. In the discussion with Herr Wucherer, I heard however, that Linde was also of the opinion that one should safeguard investments that had been made in the plants, but I have no knowledge of my own about this point.

Q Witness, was director Jachne, who was a technical expert exclusively, connected with the lease or acquisition negotiations himself?

A I do not know that. I do not remember it.

Q You mentioned just now the name of Director Ludwigs, that he was a representative of the commercial department; do you know to whom director Ludwigs was subordinate?

A To Director Weber-Andreas.

DR. KRAUSS: Thank you, Mr. President.

No further questions.

THE PRESIDENT: Continue with the cross-examination, please.

CROSS EXAMINATION

WITNESS MAYER-WEGELIN

BY DR. HOFFMANN, counsel for the defendant von Der Heyde:

Q Witness, in regard to the acquisition of the Austrian and Czechoslovakian plants, I ask you, do you know whether in the case of this acquisition Dr. von Der Heyde played any part?

A No, I know nothing about that.

Q Do you know anything about that from hearsay?

A No. I know von Der Heyde only from the time beginning with the war, because he could facilitate foreign visas if one needed such visas.

Q But do you not know that he had any connection with the acquisition of Austrian and Czechoslovakian plants; would you have known about such connections if there had been any?

A If they were to be seen in contracts, I should have known about them.

DR. HOFFMANN: Thank you very much.

CROSS EXAMINATION

Dr. MAYER-WEGELIN

BY DR. METTZLER, counsel for the defendant, Haefliger:

Q Witness, I should like to ask you a few questions in

connection with your Norway affidavit, that is English document book 65, on page 102, the German document book 65, on page 162, Exhibit 1211. In this affidavit you speak of the foundation of a magnesium plant in Norway, and in that connection you mentioned negotiations between representatives of the Norsk-Hydro, and representatives of Farben on the one hand, and representatives of the Reich government on the other hand, and you express the fact that the Norwegian gentlemen apparently were more willing to negotiate with Farben than with the representatives of the Reich government.

Since your affidavit is somewhat short in this connection, in order to clarify the connections, I should like to ask you a few questions. The cause for the foundation of this magnesium plant according to your affidavit was an order of the Reich Minister of Aviation; is anything known to you about that?

A I have no documents about that, but I heard that.

Q Do you know about the contents of that order; anything definite?

A It was to be an additional magnesium plant of about 10,000 tons capacity per year.

Q When was this order issued?

A It had already been issued when in the January of 1941 I returned from the army.

Q A little before that?

A I do not know how long before that.

Q Was this order directed to Farben?

A So far as I know, yes.

Q What was undertaken by Farben as a result?

A I heard that it was planned first of all to construct this plant in Gersthof.

Q Where is that?

A That is a Farben plant near Augsburg.

Q Please pause a little after I ask my question.

Q Why was this project not realized, this foundation, this erection of the plant in Gersthof?

A I know no details. There must have been technical difficulties.

Q Very well. What was the development of this plan further on, as far as you remember; that is, after Gersthofen had not been achieved?

A After I had returned, meetings between Farben and Norsk Hydro representatives had already taken place with the aim of constructing this plant in Norway in the proximity of another plant that Norsk Hydro had, after the Reich Ministry of Aviation had suggested that we go to Norway.

Q Where was this plant to be constructed in Norway?

A In Heroen?

Q Did Norsk Hydro have another plant in Heroen?

A They had a nitrogen plant there.

Q This new plant was to be constructed on the site of Norsk Hydro, if I understood you correctly?

A Yes. The site was a peninsula, as far as I know, which already had plants of the nitrogen enterprise on it, and partly it was undeveloped. The undeveloped part belonged to a subsidiary of Norsk Hydro.

Q Witness, you said that negotiations were then taken up with representatives of the Norsk Hydro to erect these plants. Can you tell me what gentlemen conducted the first negotiation and where they conducted it?

A The first negotiation?

Q Yes, the very first.

A I do not know that but, as far as I heard, Dr. Moschel and von der Bey, in the second part of 1940, had to go to Norway for that purpose.

Q Did then the Norwegian gentlemen pay a visit to Germany?

A As far as I know, yes, but that was still before my return.

Q When were the decisive negotiations conducted with the representatives of Norsk Hydro, and where were they conducted?

A In the last days of January, Dr. Haefliger, Dr. Moschel, Dr. Buch and myself went to Oslo, and on that occasion the first plan was drafted and initialed.

Q And in your affidavit you already described the contents of this contract. Will you please repeat that briefly?

A A joint enterprise was to be erected in which Norsk Hydro participated to an extent of forty-nine percent and Farben to an extent of fifty-one percent. The amount of capital invested, I do not remember; but as far as I know, it amounted to thirty million Kronen.

Q Witness, please answer this question. What was the spirit in which these negotiations were carried out with Norsk Hydro? Can you describe that to the Tribunal with a few comments?

A The tone of these negotiations was very serious, factual and polite. There were also personal conversations carried on, and I do not remember that in the course of the conversations I heard that any dispute arose.

Q Witness, did you at any time have the impression that the Farben gentlemen exercised a pressure on the Norwegians?

A No, I believe that the gentlemen from Norsk Hydro felt at ease in our presence for they often criticized the German occupation and the Quisling Government, without any reservation, in a way that they could only dare if they knew definitely that we would not report them.

Q You mean then, witness, that a very pleasant relationship existed between the Farben gentlemen and the Norsk Hydro gentlemen?

A I had that impression.

Q Were these gentlemen of Norsk Hydro, by the way, opponents of the Quisling Government?

A Yes, without a doubt.

Q Witness, you said that this contract was initialed in January of 1941, so that a complete agreement had been achieved between Farben and the Norwegians?

A That was not a contract yet; that was a series of drafts which, for the most part, carried the full text, but which partly were only surveys. These drafts were initialed by Herr Eriksen and Herr

Haeffliger on each page and with these drafts we traveled back to Berlin in order to submit them to the Reich Ministry of Economics.

Q I interpolate a question here. When this visit took place in Oslo, was the participation of 49-to-51 percent decided upon or did they still discuss this ratio in Oslo?

A They still negotiated about this ratio in Oslo.

Q You wanted to submit this contract to the German authorities. Tell me, witness, how did this plan develop further on? In your affidavit you speak of the fact that certain agencies of the Reich had an interest in this plan. Would you please tell the Tribunal in detail how this developed further on?

A A discussion took place in the room of the Ministerial-direktor Cayka--

Q Excuse me for interrupting you.

DR. METZLER (Counsel for Defendant Haeffliger): This discussion, Mr. President, is contained in Document Book 65, English page 45, Exhibit 587; German Book 65, page 93. May I ask the Tribunal to permit me to put this exhibit to the witness because it is directly connected with the proceedings which are treated in this affidavit?

THE PRESIDENT: Does counsel wish to pass the exhibit to the witness and then interrogate him?

DR. METZLER: Yes, please.

THE PRESIDENT: It is entirely proper.

(Document presented to witness)

DR. METZLER: Your Honors, please forgive me, but it has just been pointed out to me that the witness spoke of a very "confidential" relationship that existed between the gentlemen of Norsk Hydro and the gentlemen of Farben. The word "vagtvanensvoil" "confidential" was translated by using the word "pleasant." I believe that "full of confidence" would be better. I wonder if the interpreter would be kind enough to correct it.

MR. SPEECHER: We will agree with Dr. Metzler.

DR. METZLER: Thank you.

BY DR. METZLER:

Q Witness, may I come back to that exhibit that you have before you? I should like to find out from you what the Reich agency said concerning your plan?

A The plan was rejected in the form in which it was presented.

Q Why?

A It was out of the question, they said, that we and Norsk Hydro alone should erect this plant. And, as far as I remember they even talked about eliminating Norsk Hydro altogether, or satisfying them with only a very small amount of participation.

Q Did the government demand in this connection to develop further production branches besides magnesium in this plant?

A Yes. That already had been done previously. In the evening, after the records had been initialed, in Oslo which I discussed before, Herr Haefliger and Herr Moschel had met Dr. Koppenberg. I myself was not present at that time, but I heard on the next day, or on the way back from these two gentlemen, that the new erection in Feroen should include other products, especially aluminum.

Q Yes.

A I see from this record here that ten to fifteen thousand tons of aluminum, twenty-five thousand tons of alumina, and three thousand tons of creolit were to be included, and they are probably the products mentioned.

Q The Reich wanted to develop further production branches in this plant; and please describe the course of the negotiations briefly here in the course of that meeting.

A In this meeting, Dr. Koppenberg lectured about the plan and about the production program.

Q Who was Dr. Koppenberg?

A He was still general director of the Junkers plants and known to me because, as the Plenipotentiary of Hermann Goering, he had the special mission of erecting a few aluminum plants in Norway.

Q Yes, please continue.

A Dr. Koppenberg lectured about this new program, the extended production program, and, as far as I know, there was no dispute on that point. In this case the discussion was aimed at the nature of how this new enterprise was to be found and who was to participate in it.

Ministerialdirektor Ceika demanded a considerable participation of the enterprise, led by Dr. Koppenberg, which was called Nordag at the time and which was later called Hansa-Leichtmetall. The result of the meeting was that all three enterprises -- that is, Farben, Norsk Hydro and Nordag -- should take over one-third each.

Q Witness, do you remember that in the course of this conversation differences of opinion arose, that the representatives of the Reich were very harsh?

A Ministerialdirektor Ceika became aggressive because of a few points that were contained in the drafts. As far as I remember, the following was at stake. Norsk Hydro, for reasons of taxation, did not want to sell the new property in Hørsen to the new corporation, but wanted to lease it for a long term; and they gave as the reasons that in Norway it was generally customary that even if property was to be developed it was only leased. And in the first draft we had agreed to that suggestion. There was another passage in that draft, according to which if the new plant was no longer to be operated Norsk Hydro could request that the site was cleared of the plant. But we only considered these passages of a formal nature and we agreed to it to have peace. But Herr Ministerialdirektor Ceika reacted to this very violently, and he declared that it was out of the question to permit Norsk Hydro to have

such influence in this new plant. On the contrary, he said, such regulations were a proof for the necessity of having an agency of the Reich Ministry of Aviation participate in this plant as an agency of Rust.

Q That is a reproach of the Farben gentlemen, isn't it?

A Yes.

Q Witness, I am especially interested in the attitude of my client, Herr Haefliger, in this connection. Do you remember in what form Herr Haefliger reacted?

A Herr Haefliger wanted Norsk Hydro to participate.

Q Was that a small participation, or a considerable?

A I do not remember Jetnils, but the result of that meeting was that Norsk Hydro should participate to one-third, and that was to be brought back to Herr Haefliger's efforts.

Q Witness, did you draft the record that you have before you?

A Yes, it bears my initials.

Q Is it fair statement to say that the contents of this record correspond to the actual state of affairs?

A That is correct, but with a certain limitation. File-notes of this nature, which I made for my own purposes, contained more details. I remember clearly that the purpose of this record was a very definite one. Ministerialdirektor Ceika, because of Herr Haefliger's representations, had made a number of oral promises, the most important of which was that after the war the participation of the Hansa Leichtmetall should be repatriated.

Q In order to clarify it again, the Hansa Leichtmetall was the Reich enterprise?

A That was the aluminum enterprise which was subordinated to the Reich Ministry of Aviation, in contrast to the Vereinigte Aluminiumwerke which were subordinate to the Ministry of Finance or --

such influence in this new plant. On the contrary, he said, such regulations were a proof for the necessity of having an agency of the Reich Ministry of Aviation participate in this plant as an agency of Rust.

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A That was the aluminum enterprise which was subordinated to the Reich Ministry of Aviation, in contrast to the Vereinigte Aluminiumwerke which were subordinate to the Ministry of Finance or --

Economics.

A further promise was made with regard to the compensation for the metal plant. In the case of the first draft in Oslo, we had not discussed the metal plant at all because at that time we were only concerned with magnesium. But when the plan was extended to include aluminum, we had to take into consideration that since 1910 we had a contract with the metal works according to which the interests of both sides in the field of aluminum could only be realized jointly.

According to that contract we were obligated to have the metal enterprise participate in Heroen in the aluminum field, but since this would have been impractical we demanded an assurance from Ministerdirektor Ceika that the metal plant should participate in another enterprise in Norway in the same amount as Farben at Heroen.

DR. METZLER: Please, I ask the indulgence of the Tribunal. A slight mistake occurred in translation. The word "Metallgesellschaft" which is a German firm which concerned itself with metal trade, was translated as "metal plant." "Metallgesellschaft" is the name of the firm.

MR. SPRECHER: That is correct.

THE PRESIDENT: While we are pausing, the Tribunal would like to remind counsel and the witness again that you are burdening the interpreters a little too much. I note that you are getting the "yellow light" pretty frequently. If you will just remember that the members of the Tribunal do not hear what you say at all -- we only get it remotely, after it has been translated, and that does take a bit of time. If you will give us your cooperation, perhaps, it will help. Thank you.

DR. METZLER: Please forgive me if I did not take that into consideration.

BY DR. METZLER:

Q Witness --

A Excuse me, I had not yet finished.

Q Please go ahead.

A Ministerialdirektor Coika had made assurances which we considered important. According to the custom, it was not to be expected that such assurances should be confirmed in writing. If we should have sent a written confirmation to the Ministry of Aviation, then very probably a rejection or a limitation would have been returned to us. For that reason I drafted this record in order to send it to the Reich Ministry of Aviation, in order to write down these assurances; and undoubtedly when I formulated these Minutes I intended to draft the record so that the Reich Ministry of Aviation should have a pleasant reading and should not be induced to contradict what I said.

Q You forgot to mention one point, witness, and that is the fact that Norsk Hydro, by participating in another nitrogen plant, should be compensated for the loss of their part of the site and consequently the impossibility to enlarge their nitrogen plant at Haroen.

A I see that here, but I do not remember it; but if it is contained in the Minutes, then it was true.

Q You cannot tell me whether this suggestion was made by Herr Haefliger?

A I cannot say that, but I cannot imagine that anybody else of the participants should have made such a suggestion.

Q Well, witness, if I understood you correctly, you summarized the course of these conversations by saying that the Farben gentlemen and Herr Haefliger in particular urged representative for vis-a-vis of the Reich have the affairs in Norway regulated in a fair way?

A Without a doubt.

Q And, as a result of these endeavors, the first negative attitude of the Reich was ameliorated somewhat in favor of the Norsk Hydro?

A Yes.

Q (Document returned to attorney) After this conversation a new contact was established with the gentlemen of Norsk Hydro?

A Yes, but I do not remember in what form they were informed about this new situation.

Q You do not know either how the Norwegian gentlemen reacted to this?

A The Norwegian gentlemen undoubtedly were reacting to this new partner in the same unpleasant manner in which we reacted.

Q Weren't these Norwegian gentlemen informed that they would have certain compensations, such as, for instance, the participation in another new nitrogen plant, and so on?

A I don't remember that.

Q Witness, then Nordisk Løtmetall was founded in which the Norsk-Hydro participated with one-third, Farben with one-third and the Reich with one-third. Isn't that right?

A Not directly. First of all the Norwegian gentlemen came to Berlin once more and there the plan was discussed in its new form and edited anew. This plan, too, which, by the way, was also negotiated with Nordag was submitted once more to the Reich Ministry of Aviation and there after the foundation meeting should take place in Oslo and as I remember this was to be shortly before Easter. The foundation meeting that had been planned was called off, because at the last minute, Dr. Koppenberg wanted to get special plenipotentiary powers for himself and he called attention to his position in the Junkers-Werke and Nordag and he rejected at any rate to sign the drafts that had been provided and instructed me very aggressively to get in touch with his legal secretary, Czecynowski, and to have him explain to me how this question had been handled in the case of the Junkers-Werke and in the case of the Nordag.

Q Witness, may I ask you to tell me quite briefly what position did Mr. Koppenberg want as representative of the Reich, in this kind of an enterprise?

A If I remember correctly the Presidency of the Aufsichtsrat with the right to give directions to the Vorstand.

Q Witness, who did finally become the Chairman of the Aufsichtsrat, after this attempt of Koppenberg's failed?

A The Chairman of the Aufsichtsrat became Mr. Axel Aubert.

Q Who was that?

A The President of the Norsk-Hydro; and a working committee within the Aufsichtsrat was formed in which Mr. Koppenberg presided.

Q If I understood you correctly then a solution was achieved which was agreeable to Norwegian interests by having a Norwegian Chairman of the Aufsichtsrat despite the objection of Mr. Koppenberg.

A At the beginning we undoubtedly feared that Dr. Koppenberg might make more of this working committee than was agreeable to the other gentlemen. But for the rest Mr. Axel Aubert remained the President of the Aufsichtsrat.

Q Did Mr. Koppenberg not exploit his position in the working committee as you originally feared?

A I don't know any details about that but I remember definitely that I was never asked for legal advice, whether Mr. Koppenberg could do something or was not entitled to do something else.

Q A further question and then I shall conclude. Was the majority of the Vorstand of this enterprise Norwegian or German?

A It was always Norwegian. As far as I know ratio was two to one. This was done because this was a mandatory point in the Norwegian corporation law.

Q If I understood you correctly, witness, you had to draft the contracts as a lawyer from the very start. Did you stress the importance of observing the Norwegian laws when you did that?

A This point was always taken very seriously. Before I went to Norway for the first time I visited in Berlin the Kaiser Wilhelm for International law and Foreign Private law, and I searched for material about the Norwegian law. I found very little and what I found could not be exploited because I only had available the Norwegian texts and nobody could translate it. However, I talked to Herr Eriksen and his assistant Seyersted, that is to say, two gentlemen from Norsk-Hydro, about the Norwegian legal situation and these two gentlemen were Norwegian lawyers. Besides that with the knowledge and approval of these two gentlemen I submitted the plans each time to the Norwegian lawyer Jens Hoyerdahl to have him advise me apart from aspects of taxation and such like-whether I made any infraction against the Norwegian law.

Q You mean the old Norwegian law, not for instance, the Quisling laws?

A No, not the Quisling laws.

Q Your Honors, that concludes my interrogation.

BY DR. SCHUBERT (for the defendant Buergin):

Q I have only a few questions, your Honors, I think I shall have finished by the time of the recess. Dr. Mayer-Wegelin, I want to differentiate between two questions, first, the increase in the capital of Norsk-Hydro and then the foundation of the new Lettmetall Gesellschaft. Can you tell me first of all by reason of your knowledge of affairs and conditions whether Dr. Buergin participated in the matter of capital increase of the Norsk-Hydro and especially in the negotiations which were conducted with the French share-holders?

A I cannot imagine this. I, myself, did not participate in these negotiations but I received a few file notes of my Berlin colleague Dr. Kersten in which the course of events was described. Details I no longer remember, but I cannot imagine that Dr. Buergin who was only concerned with technical matters should in any way have been concerned with these questions.

Q When the Nordisk Lettmetall was founded, if I understood you correctly, Dr. Buergin's task was only the technical aspect of the situation.

A Yes. And furthermore Dr. Buergin was a member of the Aufsichtsrat. In the foundation itself, at the negotiations for this foundation, he was not even present for I remember that I had plenipotentiary powers from him to sign a share for him and that corresponded, as far as I know, to the Norwegian law, according to which every member of the Aufsichtsrat had to be a share holder.

Q Herr Mayer-Wegelin, do you know anything about the fact that the machinery for this Norwegian enterprise for the largest part was brought from Germany to Norway?

MR. SPRECHER: Objection.

DR. SCHUBERT: May I answer this briefly. This affidavit is in connection with spoliation and plunder and therefore I consider

it essential to determine that when the Nordisk Lettmetall was founded machinery was only brought to Norway; none was taken away from there.

THE PRESIDENT: That would not be proper unless there is something directly or indirectly about machinery in the affidavit because this is cross-examination, limited to the field of the affidavits before the Tribunal. It might be competent as a matter of defense but not as cross examination.

DR. SCHUBERT: That concludes my cross examination.

THE PRESIDENT: Counsel, unless you can conclude your cross examination in about two minutes we better rise for lunch.

DR. BACHMANN: I believe it will take a little longer than that, Mr. President.

THE PRESIDENT: We expected that. A recess will be taken now, until 1:30 o'clock p.m.

(A recess was taken until 1330 hours).

AFTERNOON SESSION

THE MARSHAL: Military Tribunal VI is again in session.

THE PRESIDENT: You may resume your cross-examination.

CROSS-EXAMINATION

DR. MAYER-WEGELIN

BY DR. HENZE (Counsel for Defendant Dr. Oster:

Q Witness, I should like to ask you a few questions regarding the affidavit which has just been discussed by my colleague. On Page 1 of this affidavit, after talking about the light-metal question, you say this:

"Concerning the entire Norsk-Hydro project, so far as I know, it was dealt with by the Central Finance Department, together with the Nitrogen Department", and you mention my client, Dr. Oster.

Witness, is it known to you that Dr. Oster was the head of the Nitrogen Syndicate?

A Yes.

Q And at the same time head of the nitrogen sales for the I.G.?

A Yes.

Q Did the light-metal project have anything to do with nitrogen?

A No.

Q May I start from the assumption that you have made a mistake here?

A No. The origin of this sentence is as follows: I was asked who, apart from the light-metal project, was responsible and competent for the connections between Norsk-Hydro and I.G.; whether I had worked in this field; and I said "no" to that.

Then I was asked what I had to do with it. I said it was because it was a matter of magnesium.

"Who else dealt with the general relationship between Norsk-Hydro and I.G.?" Thereupon I replied that so far as I knew the Central Finance Administrator, who was Dr. Illner, and the nitrogen Sparte, that was Dr. Oster. This sentence does not refer to the foundation of

the light-metals industry.

DR. HENZE: Thank you.

BY DR. BACHEM (Counsel for the defendant Ilgner):

Q Dr. Mayer-Wegelin, I would like to put a question in connection with the last question, and I want to put to you that Dr. Ilgner had nothing to do with the general relations of the Norsk-Hydro and I.G., apart from the later negotiations from 1941 onward.

Did you concretely know what you put down here on paper, or was it just an assumption on your part?

A That was an assumption of mine which originated in the impressions which I gathered from conferences with the gentlemen of Norsk-Hydro, and I only met the gentlemen of Norsk-Hydro concerning this matter, that is, from 1941 onwards.

Q So that the knowledge which you had after 1941, you referred to the previous years?

A Yes.

Q Then, Dr. Mayer-Wegelin, in your Norway affidavit, Exhibit 1211, NI 8582, Document Book 65, you mention the extent of capital of the Norsk-Hydro. This morning you said that you did not take any direct part in this, but that you were informed about this by a gentleman who was in the I.G. You mentioned Dr. Kersten in this connection. For that reason you knew something about these measures. Dr. Mayer-Wegelin, do you know from this inside information in what way the extension of capital of the Norsk-Hydro was carried out?

A I cannot recall the details with any exactitude. I have only refreshed my memory for this reason. In 1945 in Frankfurt, I made a report about the foundation of the light-metals industry in Norway, and on this occasion I was allowed to look through the files, but I cannot give under any oath details about this matter, which I did not have to work with closely.

Q Then I merely want to put this question to you, whether you remember from your study of the files that this increase in capital of

Norsk-Hydro was decided upon in an orderly manner by the board as well as by a stockholders' meeting of the company?

A I cannot recall that from memory.

Q Dr. Mayer-Wegelin, you further say that it was your impression that the German Reich agencies and the I.G. wanted to participate in Norsk-Hydro to approximately equal parts. Is it known to you that the German Reich demanded a share in Norsk-Hydro?

A Yes, that was discussed. For this reason, when we concluded a magnesium license agreement with the United Aluminum Works (Vereinigte Aluminum-Werke), the Air Ministry requested that a parcel of Norsk-Hydro shares in the hands of an office of the Ministry of Economics was to be given to the Bank der Deutschen Luftfahrt.

Q Isn't there a certain confusion here? How can the Air Ministry demand something from I.G. concerning a parcel of shares in the hands of another Reich agency, or don't you remember this incident exactly?

A I remember it exactly because we, at least I, was somewhat amused about this episode. We had to discuss the magnesium license contract with the VAW and with the Aviation Ministry, and on this occasion we were told to see to it or rather make the contract dependent upon the fact that these shares were transferred to the Bank der deutschen Luftfahrt. I looked upon this as a sort of a weakness on the part of the people dealing with this matter in the Air Ministry.

Q Dr. Mayer-Wegelin, would you kindly tell the court what VAW stands for?

A The VAW is the United Aluminum Works. That is an Aktiengesellschaft which has been in existence for quite a long time, and which owned the principal German aluminum works; its factories produced about 80 per cent of German aluminum. The company belonged to the VIAG concern, that is, to the German Reich.

Q Dr. Mayer-Wegelin, do you know the reason why the Reich asked for a participation in Norsk-Hydro to the same extent as I.G. Farben?

A This was to prevent the I.G., through its influence in Norsk-Hydro, gaining more influence in Nordisk-Lettmetall than was justified by its one-third participation.

Q At the end of your affidavit, Dr. Mayer-Wegelin, you say that you had not worried about whether the share of the I.G., together with the share of the I.G. Chemie-Basel in Norsk-Hydro, would exceed the shares of the Reich agency. I should like to ask you whether, during your activity with I.G., you had to deal with the questions of the I.G. Chemie?

A No.

Q Did you then also not know in detail that all ties between I.G. and I.G. Chemie-Basel had definitely been severed in 1940?

A In 1940 I was a soldier.

Q So that I may state that these are mere assumptions on your part - the last two sentences of your affidavit?

A The last sentence but one merely states that I didn't worry about this. The last sentence reads:

"I should have added the share of the I.G. Chemie to that of the I.G."

This sentence too originated in the preliminary interrogation, and I took it to mean that if, in a stockholders' meeting of the Norsk-Hydro, side by side there were sitting a representative of I.G. and a representative of I.G. Chemie-Basel, whether, in my view these two people would have voted in the same manner or not.

Q Then you did not want to say that the representative of the I.G. could have given instructions to the representative of I.G. Chemie? Rather, if I have understood you correctly, you merely wanted to say that most probably the representative of I.G. and the representative of I.G. Chemie-Basel would have voted in the same direction for reasons of private economic considerations?

A Quite frankly, I don't know even whether now prior to 1940 an I.G. representative could have given instructions to a representative of I.G. Chemie-Basel.

Q Dr. Mayer-Wegelin, in connection with the cross-examination this morning I want to put some questions to you quite briefly, also dealing with the Norway affidavit. From the negotiations which you conducted yourself with the gentlemen of Norsk-Hydro, do you remember that the gentlemen of the Norsk-Hydro, apart from all other questions, had very extensive private economic interest in the special events concerning the joint foundation?

A I don't know what kind of special events you are referring to.

Q May I recall to you the words "Wasserkraft-Moor", Water Power Moor?

A The Norsk-Hydro always, orally as well as in writing, made its signature on contracts dependant on whether the concession for the Power Station Moor was given to them, or rather, to the Lettmetall. I know that exactly because, as long as this concession was not given, the transaction was not effective, and, for that reason, the registration of Lettmetall in the commercial register in Oslo did not take place for a very long time - long after the erection of the plant had begun - so that legally, the plants were standing on foreign soil for a very long time.

Q Can you confirm, from your impressions during these negotiations, that the gentlemen of Norsk-Hydro set great store upon the granting of this water-power concession?

A That is my very definite impression.

Q Dr. Mayer-Wegelin, this morning you discussed the question of the observation of the Norwegian laws in connection with the foundation and organization of Nordisk-Lettmetall. I want to put only one question in this connection. Do you know whether it would also have been possible in Norway, disregarding these Norwegian laws, to found companies?

A As far as I know, this would not have been possible. There was not only the Norwegian corporation law to be considered, but also Norwegian laws according to which concessions for power stations, etc., could be granted only if the licensee fulfilled certain conditions.

Q May I ask you, Dr. Mayer-Wegelin, whether the Nordag, A.G., Works at Oslo, belonging to the German Reich, which was a foundation of Dr. Koppenberg, also observed the Norwegian laws?

A I am not informed about this.

Q Finally, I want to ask you a few questions in connection with your Austria affidavit. This is Exhibit 1104, NI 8583, Document Book 53, English Page 113, German Page 155.

First of all, I should like to ask you in this connection, Dr. Mayer-Wegelin, from what time on did you take part in the negotiations for the acquisition of the Austrian plants?

A That was a few weeks after the so-called Anschluss -- as far as I know, at a stage when the commissars appointed for the Vienna companies had been recalled.

Q That must have been in May or at the end of May, 1938?

A That may be correct.

Q Dr. Mayer-Wegelin, were the private business reasons which you gave at the beginning of your affidavit -- I may quote quite briefly:

"In acquiring enterprises in Austria, the I.G. wanted to supply the markets in the southeast, that is, in the Balkan countries:"

And I ask you whether these reasons were mentioned in the negotiations at which you were present?

A In the internal discussions in which I took part, the supplying of the southeastern markets from Austria was always mentioned.

Q I should then like to ask you, Dr. Mayer-Wegelin, how you arrive at the formulation of the last sentence of the first paragraph of your affidavit, which I quote as follows:

"In a certain sense, instead of using the expression 'a visiting card', one might also say that, through the acquisition of these enter-

prises, the I.G. showed its share in the aims of the German government with respect to armament."

Could you give me a short explanation on this point?

A The formulation was submitted to me in this form. I talked about it, and it was ascertained that it originates from the fact that several documents state that it was intended to utilize these plants for the purposes of the Four-Year Plan.

Q Then I should like to ask you, Dr. Mayer-Wegelin, whether you still recall that on 19 March 1938, a regulation was issued restricting the construction of enterprises in Austria, whereby, as a basic preliminary, the acquisition of Austrian enterprises by German nationals was forbidden?

A I cannot recall that.

Q But do you know, Dr. Mayer-Wegelin, that the I.G. met with considerable difficulties in Austria? You yourself mentioned, a short while ago, the appointment of National Socialist commissars in the I.G. plants in Austria.

A I never took part in these discussions with official agencies and know from my own knowledge only that the recall of the commissars was dependent on the condition that they be retained by the firm in a high position. The gentleman in question was von Odelga, and another gentleman was Herr K. O. Schiller.

Q But you have not fully answered my question, Dr. Mayer-Wegelin. I asked whether you knew that I.G. had great difficulties in Austria in its relationships with the official agencies - difficulties which showed themselves, among other things, in the appointment of commissars?

A That may well be so, but I believe this stage was already passed when I got my assignment.

Q That may well be.

A That is, I don't remember from my own knowledge.

Q. Dr. Mayer-Wegelin, does it seem plausible to you that I.G., in view of the difficulties which undoubtedly existed at that time, had to give very good reasons in its applications to official agencies in order to have any chances of success at all?

A. I can imagine that.

Q. Do you know that, at that time, the words "Four-Year Plan" were very attractive to the ears of German official agencies?

A. I know that these words were often used as a slogan.

Q. So that you will agree with me that these words were emphasized in the applications in order to make the application more palatable to the authorities?

MR. SPRECHER: Mr. President, I object, as being beyond the scope of cross examination, and also as calling for speculation.

THE PRESIDENT: Can you defend that question, counsel?

DR. BACHEM: Yes, Mr. President, I can. I asked these questions because the witness stated a little while ago that this sentence, which also contained the word "rearmament", was submitted to him with the justification that this word had been used in some documents. It seemed right to me to stress in what connection this appears and how we have to view it.

THE PRESIDENT: Very well, the objection will be overruled.

BY DR. BACHEM:

A. I remember only one document in which this word was used. That is the transcript of the proceedings of the foundation -- or the chapter -- of the Donau-Chemie. This document was drafted by me, together with a Viennese notary public and another Viennese lawyer. I am convinced today that we did not stress the introduction of the document at that time, we rather emphasized the contents concerning corporation law.

Q. Is it correct, Dr. Mayer-Wegelin, that this document, at that time, had to be submitted to the German official agencies for their consent?

A. At least it had to be submitted to the court.

Q. Dr. Mayer-Wegelin, I have now this question. During your interrogation you remembered Dr. Ilgner's expression of the "good visiting card" very well. Therefore, I want to ask you whether you also remember that Dr. Ilgner used this expression in connection with the fact that he was of the opinion that the I.G. was to erect a model plant in Austria in order to impress the south-eastern European purchasers and induce them to buy more?

A. I remember that this expression was frequently used. I cannot state under oath what the exact meaning was in every individual case. In any case a model plant was to be erected in Austria.

Q. And you understand this expression of the "good visiting card" in this sense?

A. Well, the expression itself says so.

Q. Thank you. Now at the conclusion of your affidavit, Dr. Mayer-Wegelin, you say that you assume that the over-all plan for the acquisition of Austrian enterprises, including Deutsch-Matroid and the Oesterreichische Dynamit Nobel, originated with Dr. Ilgner. I should like to ask you whether you do not know that this plan originated in 1927 and that in this connection an I.G. commission, consisting of Professor Duden, Dr. Pistor, and Dr. Kuehne, visited Austria at that time and inspected the plants?

A. No.

Q. Then I should like to put this to you. It is an extract from the KA minutes, which the Prosecution has submitted as Exhibit 1069, NI 9289. I quote from the minutes of September 1937:

"Mr. Weber-Andrease reports on the measures which are not being examined in Austria, whose guiding principle is to bring about a closer relationship between I.G. and the Skoda-Wetzler Werke A.G., as well as between the Czechoslovakian-Austrian part of the Dynamit Nobel A. G. and the Skoda-Wetzler works."

Dr. Mayer-Wegelin, do you now agree with me that this plan regarding the Austrian participation was extensively supported by the gentlemen of the Chemicals Sparte?

MR. SPRECHER: I object, your Honor, Does it help if the witness shows here what he concludes or what he thinks about it?

THE PRESIDENT: The Tribunal is not interested in whether the witness does or does not agree with some other witness. That would not be cross examination.

The Chair would like to say that there comes a time in almost every extensive cross examination of a witness, when the members of the Tribunal reach the very definite conclusion that any further inquiry will not be helpful to it and, at most, is merely a waste of valuable time. The President just wishes to express the personal view that we have already passed that stage in the cross examination of this witness. We think that the subject has been pretty fully covered and the help that this witness can be to us has been given. We are not quite ready to arbitrarily say that we will not hear any further question, but we may reach that pretty soon, and counsel might take that into account in a few questions that they have in mind asking from now on.

Go ahead.

DR. BACHEL: Mr. President, I actually have no further questions to this witness, but it seemed right to me to clean up this last remark of the witness in his affidavit, and, for this reason, I put the minutes of the I.G. to the witness.

THE PRESIDENT: The Tribunal appreciates the situation that counsel for the defense find themselves in when they are called upon to cross examine a witness who has, in an affidavit, drawn conclusions and expressed opinions of various kinds and character. Fortunately, this particular affidavit does not offend in that respect as much as some that we have already had before us, but, after all, we can assure counsel for the defense that the members of this Tribunal can distinguish between opinions and inferences and statements of fact, and you need not be too apprehensive that the Tribunal is going to be influenced by something that, on the fact of it, has practically no probative value. You can safely keep that in mind in framing the course of your cross examination.

Thank you very much.

DR. BACHEM: Then I have no further questions, Mr. President.

THE PRESIDENT: Any further cross examination of this witness?

BY DR. SIEMERS (Defense Counsel for defendant von Schnitzler):

Q. Mr. Meyer-Wegelin, I only want to discuss with you quite briefly your affidavit, Exhibit 1238, concerning the oxygen works in Alsace-Lorraine. In the first paragraph you say:

"Partly these factories had been evacuated by the French, but, in part of the plants, the equipment and material were still there."

Had work stopped entirely in the factories at that time or only partly?

A. I do not possess any knowledge of my own regarding this.

Q. Do you know whether the leading gentlemen of these works - that is, the Frenchmen - had left when the factories were evacuated or whether they remained on the spot?

A. I don't know that.

Q. Do you know whether the continuation of the operation of the factories was in the interests of the civilian population in the neighborhood?

MR. SPRECHER: Objection. Beyond the scope.

THE PRESIDENT: Objection is sustained.

DR. SIEMERS: Mr. President, may I just say another sentence regarding this? In the affidavit the economic side is mentioned, and the documents deal with the economic questions. I had the intention to submit Exhibit 1228 which deals with these economic questions. I should be grateful if I could put this lease contract to the witness. My question was only an introduction to this.

THE PRESIDENT: If you care to pass the contract to the witness and ask something directly about it, you may do that.

BY DR. SIFERS:

Q Dr. Mayer-Megelin, I put to you the lease contract, Exhibit 1228 in Document Book 62, Page 9, and I should like to point out to you the first sentence of the preamble, which reads as follows: "In view of the increasing demand of the Lorrainian economy for oxygen, it is necessary to increase the capacity of oxygen-producing plants. I. G. intends to take the necessary measures by the erection of new machines, etc., and it intends to perform the necessary repairs as quickly as possible." Do you remember now the significance for Lorrainian industry?

MR. SPEECHER: Objection.

DR. SIFERS: I believe, Mr. President, this is a fundamental question regarding the charge of the Prosecution as to spoliation. The Prosecution has interrogated the witness in the affidavit about the legal basis, the witness said, literally, "We knew, of course, that the purchase of the land and the plants as far as they were still in existence could be challenged according to international treaties and we were aware that we might have to give up property again later." I believe, Mr. President, that this concerns the economic side of International Law, and this is a matter in connection with Article 43 of the Hague Convention, and if the Prosecution puts such a question to the witness, I believe I can also.

THE PRESIDENT: The Tribunal will stand on the ruling; the objection is sustained.

BY DR. SIFERS:

Q Dr. Mayer-Megelin, do you remember that a sales contract was concluded later, on 7 January 1944?

A No. Since March 1943 I had again become a soldier.

Q I ask you to look at Exhibit 1235, on Page 29 in the document book. This sales contract is dated 7 January 1944, and it struck me that the power of attorney for this contract was dated at a considerably earlier date. The power of attorney was given to Baron von Lessner, and, according to Page 36 of the document book, this power of attorney was signed by you on March 1943. That is about the date in which you said you joined the army again.

A I joined the army again at the end of March 1943, and prior to that I had a few days' leave.

Q Does that mean Dr. Mayer-Wegelin, that the contract had already been prepared in 1943 and was concluded only for formal reasons so much later, or can you give any other reasons, from your recollection, for the great difference in time?

A I can't explain the thing to myself. It may be that before I was drafted again I prepared a lot of things, matters which were still in a state of fluctuation at that time, but I cannot explain this difference in time. In my interrogation, however, I repeatedly stated that the facts concerning these oxygen plants were so complicated that from time to time I had to try to clarify these matters for myself by careful study of the files, and I asked again and again during my interrogation to look at the complete files, because the files must show the development.

Q Mr. Mayer-Wegelin, at the time when you made your affidavit, you did not see the lease contract which I have just shown to you, nor the sales contract?

A No, I did not see them. One document was shown to me, a letter of a much earlier date, addressed to the central contract department at Ludwigshafen, announcing our intention to acquire some oxygen plants in Alsace and inquiring whether there were any misgivings about collusion.

Q Thank you. Then I can not put any other questions regarding these contracts, since I can only ask questions regarding the contents of the affidavit, and since at the time you made the affidavit you did not have the contracts. Will you kindly look at Page 2 of the affidavit, the following sentence: "We put aside, however, our doubts as to whether such acquisition was justified, since for the reasons I mentioned they were outweighed by the interest of both I.G. and Linde's Eis Maschinen, to excluding outsiders." Was this the decisive economic factor in-as-far as I. G. and Linde were concerned, to exclude possible other firms as outsiders?

A It was repeatedly mentioned that in the upper Alsace, that is, not at that place but rather in another part of Alsace, an oxygen plant suddenly appeared in the possession of a German manufacturer who had previously had nothing to do with the production of oxygen. For that reason we endeavored to come to an agreement with the Chief of the Civilian Administration that he, who was the sole executive power at that time, would not again appoint a third party.

Q You further say, "In other words, in order to hold this oxygen we reached the conclusion that we should assume the risk of having to return the property." Do I understand you correctly that you wanted to say that I. G. and Lindes Eismaschinen only aimed at a temporary solution?

A I believe that is the correct expression.

Q The final settlement was to depend on the peace treaty. Do you believe that this was the idea?

A I believe that was so; I can't recall details, but Director Tucherer, whom I have mentioned in my supplement, told me that Lindes Eismaschinen had had such good and friendly relations with Erdik that he was not worried about this point. He was only concerned to safeguard the investments as far as the Chief of the Civilian Administration

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was concerned. But that I did not know when I wrote my affidavit.

Q Mr. Mayer-Negelin, here you speak of the oxygen position,
and in this connection you refer to the position of I. G. and Linde?

A Together. Yes.

DR. SIEMERS: I believe, Mr. President, in connection with this word I may ask about this position of the Alsatian oxygen plants without inviting any objection from Mr. Sprecher. I believe that this sentence justifies the economic and technical question. Please don't hold it against me if I put this question again.

THE PRESIDENT: If Counsel please, this Tribunal knows that this witness is a member of the legal staff that had something to do with the negotiations with reference to these properties. We don't understand that he is an expert, we don't think he would claim to be an expert in technical matters, and if you have some proof along that line we think it should come in your defense and that this cross-examination has just reached the point of the exhaustion of the possibilities. We feel that any further cross-examination of this witness is simply an encroachment upon the valuable time of the Tribunal. It is not going to help us at all in the decision of this case.

DR. SIEMERS: I follow the admonition of the court, and with the permission of the court I merely want to put the original Prosecution Exhibit 1234 to the witness and ask the witness to tell me whether this document bears the initials of my client Dr. von Schnitzler, which I cannot determine with any degree of certainty.

A I don't believe I know Dr. von Schnitzler's initials.

Q Then I withdraw my question. I have no further questions, Mr. President.

THE PRESIDENT: Does any member of the defense staff feel that any further cross-examination of this witness is positively necessary? If you will so state as an officer of this court we will permit you to cross-examine, but unless you can tell us that you think that further cross-examination is essential to the substantial rights of a defendant, we think it ought to terminate now. There being no such request, does the Prosecution desire to encroach on our time by re-direct examination?

MR. NEWMAN: Mr. President, if you think this is an encroachment of your time I don't insist on it, but I would like to have a very few questions.

THE PRESIDENT: Just a moment till we confer here. The Tribunal will excuse the witness and close the testimony on this phase of the examination.

Call the next witness.

MR. SPRECHER: As the next witness, the Prosecution calls
EMIL EHMAN.

EMIL EHMAN, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q The witness will remain standing for the purpose of being sworn, raise his right hand, say "I", and state his name.

A I, Emil Ehmann.....

Q And repeat after me: Swear by God the Almighty.....

A Swear by God the Almighty.....

Q And the Omniscient.....

A And the Omniscient.....

Q That I will speak the pure truth.....

A That I will speak the pure truth.....

Q And will withhold and add nothing.

A And will withhold and add nothing.

Q The witness may be seated.

BY MR. SPRECHER:

DIRECT EXAMINATION

Q What is your present address, witness?

A Stuttgart-Moehringen, Kanalstrasse 15.

Q And your present occupation?

A I have no occupation at present.

Q What was your position between 1935 and 1945?

A In 1935, after work in industry, I joined the Army Ordnance Office of the OKW, first of all as an employee and later as an active Wehrmacht official. At the end I was Ministerialrat and Department head of the Department for Chemistry.

Q What type of production plants were under your jurisdiction?

A I was competent for the whole sphere of the Wehrmacht regarding the safe guarding of all chemical preliminary products for the entire production of ammunition. Apart from that I was responsible for the production, planning, and operation of chemical warfare agent plants. Also, other products like activated carbon, decontamination preparations, etc.

Q Your Honors, the only document before us in connection with this affiant is Exhibit 659, that is NI 10595, which is in your Document Book 36, English Page 112, German Page 145. Dr. Ehmann, since you swore to this affidavit in September, have you read it over several times?

A Yes.

Q And did you discuss it with several prosecution representatives, including me, since that time?

A Yes.

Q Does this affidavit constitute your own work and your own formulation?

A It is my own work and my own formulation.

Q You indicated yesterday that the German copy you have contains a few typographical errors. I don't think we have to stop on them, because I think they are clear to anyone who understands it. Is there anything that you would like to add or correct, so far as the substance of the affidavit is concerned.

A No, I have nothing to add.

Q No further questions.

THE PRESIDENT: No parts of this affidavit to be withdrawn from consideration?

MR. SPEECHER: No, Mr. President; the affidavit is a rather extensive study of the whole field of chemical warfare agents, which we think should be helpful to your Honors, and it is made by a man eminently qualified to make such a study.

THE PRESIDENT: That is a proper subject of examination. You may cross examine.

BY DR. DRISCHEL (for the defendant Ambros):

CROSS EXAMINATION

Q Dr. Ehmman, is it correct if I assume that you, as Chief of the Department for Special Chemical Products, were the best-informed personality and one who could give us an authoritative picture of the entire field of chemical warfare agents, the plants, and your judgments thereon?

A I believe this was inherent in my position; I believe that I am fairly well informed.

Q In your affidavit, on Page 2, you describe the organizational cooperation between the various agencies, the Army Ordnance Office, the Reich Ministry of Economics, the Reich Office for Chemistry, etc. Dr. Ehmman, were there not other official agencies, which also had something to say in this field?

A Apart from those I mentioned?

Q Yes.

A Yes.

Q May I perhaps put it this way to you, to be of some help to you: was there not a special committee for powder, explosives, etc?

A Yes, certainly; that was the Main Committee for Powder and Explosives, and a part of this committee was the Special Committee for Chemical Warfare Agents.

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Q With the permission of the court, Dr. Ehmann, may I put a little chart to you in order to conclude this question, a chart which I want to submit as Document Ambros Exhibit No. 5; and the court can decide on the document's probative value.

THE PRESIDENT: Just a moment now. Mr. Witness, will you please bear in mind that the Tribunal wishes you to make full answer to questions, but there is no obligation on you whatever to volunteer information or to say more than is necessary to a positive answer of the question. By that we mean to say: Don't concern yourself about whether or not further information might be given. If such a situation arises, counsel can ask you another question; so, insofar as you can, be direct, positive, and brief in your answers, and if the counsel questioning you feels that he should like to have further information, he has full liberty to ask you another question. Please bear that in mind in the course of this entire cross-examination.

THE WITNESS: Thank you, Mr. President.

BY DR. DRISCHEL (Counsel for Defendant Ambros):

Q Dr. Ehmann, will you have a look at this chart of the organization of the German chemical production during the war, at the beginning of 1945?

A Yes, I know this chart.

Q Do you see where the Special Committee C is situated?

A On this chart there is a quite clear dividing line between the ministerial agencies and, below, the organs of industry; and below, on the right, as part of the Main Committee Powder & Explosives, we find the Special Committee C substances.

Q Do you understand, Dr. Ehmann, why there is a red dividing line in this chart?

MR. SPRECHER: Mr. President, may I suggest that Dr. Drischel give us only a short statement concerning the source of the chart? I think I understand personally, but I think it would be helpful to getting on with the inquiry.

THE PRESIDENT: We would be glad to know about it.

DR. DRISCHEL: This chart was made, Your Honors, on the basis of the organizational structure as it existed in 1945 in German chemical production, and this chart, if it is correct, can be acknowledged or rejected by

the witness, who is, after all, an expert. It is submitted in order that he may judge it. It is connected with Page 2 of his affidavit, Exhibit No--

THE PRESIDENT: Very well. We understand the purpose of it. It is entirely proper, and you may proceed.

BY DR. DRISCHEL:

Q Dr. Dhmann, do you see why this red dividing line was drawn?

A Well, in 1943, in the previous year, the Ministry for Armament and War Production had received Speer as its head, and one believed that one had to organize again. And so, in 1943, these organs of industry were included in the whole armaments economy.

Q First of all, generally, did they have great importance in contrast with the official agencies, or what was the relationship?

A I am not competent to speak about other agencies of industry, but I maintain for my own field of activity that the insertion of the Special Committee C could not contribute decisively to the whole planning and organization of chemical warfare agent plants, because at that time new plans in this field, with the exception of the Sarin plant in Falkenhagen, were no longer allowed.

Q My question aimed at that point, because you no doubt know that my client, Dr. Ambros, was appointed to this Special Committee C?

A That fact is known to me.

Q Do you perhaps, by any chance, know how often this Special Committee C sat?

A I personally was never invited to attend its meetings, but from conversations which I had with gentlemen of industry I would say that this committee met once or twice, or three times, at most.

Q That corresponds with my information. Well, we can leave this committee now.

In your affidavit you go on to mention the selection of chemical firms for the erection of chemical warfare agent plants. That is on Page 3 of your affidavit, German text. Dr. Dhmann, I do not want to deal

with the individual plants at this time, but I should like to ask you for an explanation regarding an expression repeatedly used by you.

You say, for instance, on Page 6, "The chemical factory of Buchau was obligated" to do such and such. On Page 6-A "I.G. had to be obliged to put its technical experience at the disposal," etc. And similarly you say, on Page 8, "Here, too, as in the case of the traction, the I.G. Ludwigshafen had to furnish its technical experience."

You repeatedly use expressions which, if I understand you correctly, imply obligations which were, so to speak, forced.

May I ask you was this correct? Or how can you explain this?

A You understood me correctly.

Q Dr. Ehmann, could one, in view of the importance of the I.G. not say: "We do not want to have anything to do with this field of work; we refuse to build such plants at your request."

A Theoretically, of course, that could have been done, but I believe that in practice the refusal of the firm would have had different results.

Q How?

A I cannot imagine that one concern or one firm existed in Germany which would have refused an urgent demand of the Government to cooperate in the defense of the country. I do not know; I might almost assume that this is the same in other countries of the world. But had the refusal been made by the I.G., I am completely convinced that we would have found ways and means to make an important concern like the I.G. do our bidding.

Q Dr. Ehmann, I am used to thinking in legal terms and concepts, "To make them do our bidding..." On the strength of what legal duties or obligations?

A I am not a lawyer, but I know that there were sufficient legal means on the strength of a Reich law in order to compel the firms to cooperate, if it was a question of the defense of the country.

Q If the Reich had proceeded along these lines, what agencies would

have been involved? Kindly forgive me if I ask you, but you say that a concern like I.G. would have been forced—

A First of all, they would have tried the only legal way, It would have been possible by legal means, for instance, by using the Reich Ministry of Economics; also the Reich Labor Ministry regarding the service assignment of technical workers, etc.

Q I understand what you want to say.

A And finally in the background there would perhaps even have been the Gestapo.

Q Why the Gestapo?

A In the case of a really energetic refusal to carry out the requests of the army.

Q Are you thinking of sabotage?

A No; primarily I am thinking of punishment of the leading personalities involved, who, after all, were responsible for the policy of the concern.

Q Well, in order to conclude this point, on the strength of your knowledge you are of the opinion that by cooperation between the official agencies of the Reich it would have been possible to make even such an important firm as the I.G. conform to the wishes of the Reich?

A I answer this question in the affirmative.

Q Dr. Ehmann, now a few questions of a technical nature regarding the individual works.

THE PRESIDENT: This would be a good time for our afternoon recess.

THE MARSHAL: The court will recess for fifteen minutes.

(A recess was taken.)

AFTER RECESS

THE MARSHAL: Military Tribunal No VI is again in session.

THE PRESIDENT: Counsel, before you start, may we have the record show that the diagram which you handed to the witness, is identified as Ambros Exhibit 5 for purposes of identification only? You may later determine whether you wish to offer it in evidence. Very well.

DR. DRISCHEN, counsel for defendant Ambros:

Q. Dr. Ehmann, after your general description of the history of Orgacit and so on, please turn to your affidavit, Exhibit 659, page 7, where you will be kind enough to explain to me why in the contract between Orgacit and Farben, the demand was made that the preliminary products plant in Ammendorf, should be used only for the military purpose of producing mustard gas?

A. I do not know whether you are familiar with the fact that during the first years of rearmament, the army could not create any special interest in Farben, that the latter should get active in producing chemical warfare agents.

However, we found other firms who were more ready to do our bidding, and since in the very case of the chemical warfare agents called mustard gas ("Loss") which had already been used during the First World War, and as you know, it is a chemical agent which is easily produced, comparatively speaking, we decided to go to the other firms.

However, for the production of this chemical a preliminary chemical product is necessary which could only be produced by Farben, which Farben had produced for private business purposes in their plant in Ludwigshafen.

The other firms, as I said, were not in a position to produce that chemical, and therefore, I, if I wanted to achieve my purpose, had to force Farben in some form or other, to make this process available to the other firms.

Q. What preliminary product are you thinking of?

A. That is Thiodiethylcol, that I am thinking of. It is true that I had to grant permission to Farben, if they were interested, for a foreign firm to produce that product, and that they, Farben, should not flood the market with that product. That must be in all fairness granted to such a firm. That is selfevident, of course.

Q. Dr. Ehmann, on page 6 of the German version, you say that Ammendorf was the only plant that worked for stockpiling purposes, and the mention and figure of altogether 20 to 22 thousand tons, oxol mustard gas, - do I understand your affidavit correctly if I assume that that was the entire production of Ammendorf until 1944?

A. Counsel, I must first correct your first question. Ammendorf was not the sole plant which worked for the stockpiling of chemicals.

Q. Dr. Ehmann, I am speaking solely of the oxol mustard gas plant.

A. But you did not say that previously.

Q. But I submitted your affidavit to you on this point, and you can read it there on page 6, that is 6 of the English, HI 1095, - but we understand each other. I mean the only oxol mustard gas plant working for stockpiling purposes?

A. That's correct.

Q. And now I merely ask you what the total production was in the case of oxol mustard gas?

A. The total production of oxol mustard gas which was produced from the beginning rearmament until the end of the war, was made in the Ammendorf plant of Orgacit.

Q. And what did that amount to?

A. You have already told me what it was, 20 to 22 thousand tons.

Q. I merely want to ask you further, how much of that production had been carried out by the beginning of the war, the first of September, 1939, if you can remember that?

A. May I be permitted to think this over a minute? That plant

was completed in 1936. Then it was operated for a brief period, and again it was closed for some time, and after a few months, the production really started. That means from 1937 until 1939. If we assume that they ran for two full years, that means a production of an average amount of 300 tons.

I would estimate 5 to 6 thousand tons, until the beginning of the war.

Q. Would that have been sufficient to meet the demands of the army or to put it differently, how long would that have sufficed for the army - or to put it differently again, what experiences do you have about the extent of sufficiency of this quantity in connection with the army?

A. That was a drop in the bucket, that is to say, I can remember definitely a meeting which we had in the beginning of January 1938, and at that time the demands of the general staffs of the army, the air force, and the navy, amounted to 7,000 tons a month. Since at the beginning of the war we had a production capacity of only 450 tons a month, you can figure it out yourself, what the demand was, that is to say, a store that I have just mentioned of 5 to 6 thousand tons altogether, that we had stockpiled, - that amount would not even have sufficed to meet the demands of the army for one month.

Q. You say that the amount that was on hand would not even have been sufficient for defensive purposes?

A. Yes, indeed.

Q. Do you know, or did you learn perhaps, that the question of defensive use became acute in the Polish campaign?

A. Yes, I know that.

Q. Can you explain that for the information of the Tribunal?

R. SPRECHER: The witness did not go into the question of the offensive or defensive use of these chemical warfare agents in his affidavit. I object to it as beyond the scope.

THE PRESIDENT: Well it might throw some light on the quantity

program. The objection is overruled.

DR. DRISCHER: Thank you.

Q. It seems to be important for you to answer the question since it is of interest in connection with Count I of the indictment, preparation of wars of aggression. Will you please say what you know about the application of this chemical warfare agent in the Polish campaign?

A. Chemical warfare agents were not used by Germany in this war.

Q. Were they used by the Poles?

A. We had a report according to which at the beginning of the war.....

THE PRESIDENT: That would not be helpful. He has answered that Germany did not use it in the war, consequently it would not have been reflected in any quantity program that might have been available.
BY DR. DRISCHER:

Q. It is enough when you say that it would not even have sufficed for defensive purposes.

A Further question, Dr. Ehmann, on page 6 of the German version of the affidavit, Exhibit 659, you say that the production of this chemical demanded the special interest of the military. Why do you emphasize the special interest of the military in this nitrogen mustard gas which we also call T-9?

A. Nitrogen mustard gas (N-Jost) did not have any smell.

Q. That is the same as nitrogen mustard, N-Jost, Nitrogen mustard?

A. Yes.

Q. Please continue.

A. Besides we knew that this chemical was produced also abroad in America and England, and we saw in this also an interest so that we should have to produce it too on our part.

Q. You say further something about stores or stock piles. Do you know whether Farben or any of its officials had anything to do with stockpiling of chemical warfare agents or Diglycol?

A. The industry had solely the function to produce these chemical warfare agents. These agents were taken delivery of in the plant by officers or soldiers of the Army, and that was as far as industry had to concern itself with these agents - these chemical warfare agents. That is to say, the stockpiling of these chemical warfare agents was the sole function of the Army Agency.

In regard to diglycol, the same applies, that is, my department, of course, endeavored to have as much as possible produced because we could not keep production in step with the demands of the army, that is to say, the current production was smaller than the current demand, and as a result, I tried to stockpile large amounts. And the same is true, here again. The stores were financed by funds from the Reich industry as such had no interest to stockpile goods which were dead capital for them.

Q. Mr. President, only a few more questions in regard to a very difficult technical problem, and I should be grateful if the Tribunal would give me permission to have Dr. Ambros himself put these questions.

MR. SPRECHER: I would like to enter a very mild objection on two grounds. One, I do not see that in the past it has really been shown that many of these technical questions that counsel has asked Dr. Ambros to ask, have been so technical that counsel could

not understand them himself and do a very lawyerlike job; and secondly, it does not seem to me that the practice, apart from the justice of the situation, has led to any expeditiousness of this trial in the past.

THE PRESIDENT: There is a precedent for permitting this to be done, when the inquiry involves special or scientific questions. May we inquire of counsel for the defendant Ambros, as to what parts of the documents he has in mind, that he thinks could better be inquired about by his client?

DR. DRIECHTEL: Mr. President, that is on page 9 and following of the German, where the relationship of the foundation of the chemical plant Huels is treated, because Huels originally was a synthetic rubber project of Farben, and the technical interrelation could be better elicited by a specialist, and more precisely than I could myself.

I assure Your Honors that the questions of Dr. Ambros will be directed only to essentials.

THE PRESIDENT: Well with that assurance we will grant the request then. The defendant, Ambros, may continue the cross-examination.

JUSTICE MORRIS: Before the cross-examination proceeds further, I would just like to remind the witness of what the President told him with regard to succinct and direct answers to the questions. I noticed in the latter part of the preceding examination the witness was inclined to extend his remarks considerably beyond those necessary to answer the questions. Even the last question could have been answered merely by saying that it was the province of the Wehrmacht or the Army to supervise and look after stockpiling, but the answer took quite a considerable time, and went into many ramifications, so I call the witness's attention again to the remarks of the President.

BY DR. AMBROS:

Your Honors, Huels presented a technically difficult problem

which was treated on page 9 of the German of the Ehmann affidavit, that is page 6 of the English.

Dr. Ehmann, when we planned the second synthetic rubber plant in the West, and went into the Ruhr area, and produced the electric arc which we had developed in Baton Rouge, as pilot plant with Standard Oil, the OKH wanted to get in. Isn't that right?

A. Yes.

Q. Do you still remember this chemical procedures at Huls?

A. Only to the extent in which it was necessary to me to know because of the investment of Reich funds.

Q. I have to deal with it because in the Exhibits 559 and 597 which the prosecution submitted, a wrong impression might be created. That was the raw materials basis there?

A. The raw materials basis for Huls was first of all hydrogenation of by-products of the gasoline plants there; secondly, the natural gas sources in the Bentheim area which is on the Dutch border, and finally, the ethylene-rich coke gases.

Q. You, yourself, worked in the oil field in America, did you not?

A. Yes, in 1930, I was with the Standard Oil Corporation.

Q. Then you know the conditions, how natural gases are treated?

A. Yes, to a certain extent I do.

Q. Dr. Ehmann, if the state demanded, through OKH, that a part of a production of a plant should be reserved for army purposes, was it not then for technical reasons of needs, that the plant had to conclude sales contracts? Perhaps, I can make it a little clearer. When OKH, that is you, got in with the synthetic rubber plants, and then forced us to produce ethylene oxol for your purposes, then we demanded, on our part, "Well, we will do it, but you have to give us an assurance that you will take our production for several years for otherwise we would rather have exported our goods; but to serve two

restore, that is, OKH, and export, could not be done for technical reasons". Is that correct?

A. Yes, that is correct, although OKH originally only intended to build a stand by plant, but for technical reasons when I, as representative of OKH, had to demand that you will furnish us goods on notice, then you, of course, had to conclude, I suppose, long range delivery contracts with the producers of gas; for that reason, I would assume that you had to demand it, since these goods cannot be burned away, that the goods will be turned into other useful purposes.

Q That's correctly pictured.

Q Second technical question. Can the intermediate product, ethylene oxide, be stored?

A In theory, yes, but I shouldn't like to try it because ethylene oxide explodes very easily and would cost an unheard amount of money to store it safely. May I remind you of the explosion in Schkopau?

Q That's right.

On the following page, from page 169 to the end, to be very brief, you describe and you list many firms and many products.

A I don't have such a page 169.

Q 169 to 180.

DR. DRISCHEL: Dr. Ehmman, they are page 14 and following of your affidavit in the German. Dr. Ambros gave you the pages of the book.

BY THE DEFENDANT AMBROS:

Q That's up to the end of your affidavit, from page 14 to the end.

A Yes, I have found it.

Q I can be very brief, Your Honors; by merely submitting a chart which I had to draw up in 1945 for Washington, and should like to ask my counsel to submit this chart to you as an exhibit.

DR. DRISCHEL: Mr. President, this is the offer of a further document for Dr. Ambros which I should like to submit as Exhibit #6, with the reservation that it should only be given a number. From this document, on hand of the products mentioned, the compilation of production quantities and capacities should be discussed with the witness.

THE PRESIDENT: Very well, the document will be marked Ambros Exhibit 6, for purposes of identification, and handed to the witness.

BY DR. AMBROS:

Q I have to confine myself only to the technical aspects.

On the left hand side you can see the various chemical warfare agents and their names. Chloracetaphenone, which appears in your files as Omega salt. Is that correct?

A Yes, that's correct. Omega salt.

Q Adamsite is identical to Azin, is that right?

A Yes, that's right.

Q Phosgene, Arsine oil, Clark, Mustard Gas, Direct, and Diglycol process. That's all clear, isn't it?

A Yes.

Q T-9 is a code name that you used and is identical with nitrogen mustard gas or nitrogen mustard lost, N-Lost, is that right?

A Yes.

Q Tabun and Sarin is well known and clear but perhaps, Dr. Ehmann, a product is missing and that is in a document which the prosecution submitted, Exhibit 104, that's a letter of the Luftwaffe to the directors of Farben in which one can see a short French lecture:

" In the laboratories of I.G. Farben Industry in Oppau the last tests are being made concerning new gasses whose composition is kept secret. No mask and no other means of protection will be able to resist the influence of this gas."

That is to say, Dr. Ehmann, is there any gas missing in this list - in your list of gasses?

A To the first question, there is no gas missing, and the second, that was a newspaper canard.

Q Thank you very much.

One last question. Perhaps an error has occurred in the case of Chloracetophenone. Farben, too, in the beginning, produced a small amount, but, I believe, we chemists and that question which was already discussed here with an American expert, designate Chloracetophenone not as an exclusive chemical warfare agent, but as a lacrimator.

Your Honors, that's all I have to say, technically.

BY DR. DRISCHEL:

Q Mr. President, I should like to conclude my questions and clear up this sense of the list and connect it with the affidavit of Dr. Ehmann.

Dr. Ehmann, with the aid of this list which you recollect again

probably, can you give us useable figures for the calculation of the production amount and as far as possible also of the production capacities of the chemical warfare agents, in Farben in relation to other firms?

A I can do that.

Q Then please explain it to the Tribunal.

A Mr. President, may I say here a few sentences more than would be necessary for an exact and brief answer.

I read in the newspapers when the trial started that the Farben trust produced 95% of the chemical warfare agents. In all modesty, I may say that I have a word to say in this connection too and, therefore, I took the trouble to find out how this percentage was arrived at. I made the following calculation. I started from the production capacity of the German chemical warfare plants at the beginning of the war and compared them with the production capacity of the German warfare agents plants at the end of 1944 and finally, as a third means of investigation, I compared the entire production of chemical warfare agents, beginning with 1935 until 1945, and, in all three cases, I figured out Farben's share and the share of the other plants that produced chemical warfare agents. I arrive at the following figures, but I have to make a brief explanation by saying that Dr. Ambros stated just now that, from a chemical point of view, chloracetophenone could not be called a chemical warfare agent. From the military point of view, it was classified as a chemical warfare agent and, therefore, it appears in my calculation. I agree with him chemically that it cannot be termed an exclusive chemical warfare agent and that's also the conviction of the experts from America who consider it as a lacrimator. But be that as it may, we classified it as a chemical warfare agent.

At the beginning of the war, Farben represented 8% of the entire German production capacity of chemical warfare agents. 92% were attributed to other German chemical warfare agents firms. If you do not consider chloracetophenone as a chemical warfare agent, in conformity with American experts, then the capacity of Farben when the war began amounted to nil

zero per cent, and all the others were carried by foreign firms. At the end of 1944, concerning the production capacity and here I included all plants in the meantime were eliminated, destroyed or damaged by air raids. I arrive at the following figures. Farben and their subsidiaries -- that is, those companies which were built on instigation of the Reich.....

DR. DEISCHEL (Interrupting) I want to interrupt, Mr. President. A legal consideration. The OKH plants were not subsidiaries of Farben but, at the utmost they were plants which were operated by Farben but we must differentiate between that. That was legally important.

BY DR. DEISCHEL:

A. You are right, I repeat. I said the production capacity of the plants which were owned by Farben, including those plants which were built upon the instigation of the Reich and financed by the Reich and which were operated by experts from Farben, amounted to 60% and that of the other chemical warfare agents plants, 40%. If you do not include those plants which were built upon the instigation of the Reich and owned by the Reich, i.e. if you only include the plants which were really owned by Farben, then Farben's share at the end of 1944 is only 8% and that of the other firms is 92%.

Now, a last statement that I found in regard to the total chemical warfare agents produced from the beginning to the end, which in my calculation amounted to 61,000 tons, but you say 62,000 tons.

Q In that list, then it says 62,000 tons.

A I said 61,000 tons because my calculations are a little more accurate.

Q May I point out something to you. Do you notice, Dr. Ehmann, that in these figures about 2,000 tons of captured gas is included. I point out the footnote, Your Honors, that you can see at the bottom of the page.

A Those 2,000 tons are not included in the 62,000 tons. They were chemicals that we found in the occupied territories and which we, it is

true, did bring to Germany after the countries were evacuated.

Q Please give me only the purely German production capacities without captured quantitatives.

A That's a matter of course. I arrived at 61,000 tons and from these 61,000 tons, Farben and those plants of the Reich which Farben operated produced 23,000 tons, that is 38% and the other firms accordingly produced 62%. If you leave out the plants owned by the Reich and only include the plants owned by Farben proper, then the percentage of Farben is only 9.8% and if you leave out chloracetophenone, which we have already discussed, you arrive at 5.5%. That's what I found out.

Q Dr. Henschel, do you maintain these statements if I put to you that in an affidavit of Dr. Struss he speaks about a production capacity of 95% and in the statement of a certain Dr. Mureck only 85% is mentioned.

A I don't know where those gentlemen got their documents from, but I contest their authenticity.

Q Thank you.

Mr. President, I have no further questions.

THE PRESIDENT: Any further cross-examination of this witness?

BY MR. SUBCOMAR:

Q. Dr. Shenn, on page 2 of your affidavit you say that for the safeguarding of the necessary chemical raw materials and intermediate products for the requirements in powder, explosives and chemical warfare agents and for carrying out the entire production program of those chemical agencies of the Four Year Plan especially of the plenipotentiary for chemistry were used in a decisive way. To this I ask you, is it correct that originally Professor Dr. Krauch personally had nothing to do with these things -- powder, explosives and chemical warfare agents?

A. Professor Krauch only concerned himself with these things after he became plenipotentiary general for special chemical production questions.

Q. In what form was he concerned with these things?

A. Within the Four Year Plan it had been demanded that the entire chemical industry should be steered in a uniform manner and, as far as I know, the chief of the office for German raw materials and synthetics at the time, who was General Loeb, made certain representations to Goering and told him about the improvement program of the powder and explosives production.

Q. Is it right when you say that General Loeb reported figures in the field of powder and explosives production in rather an optimistic manner and that, as a result, Professor Krauch was supposed to be used by Goering because of his technical knowledge in this field?

A. I myself didn't participate in these discussions. However, that's what I heard and I could very well imagine that General Loeb, who had no technical knowledge in this field at all, reported about things that he just simple didn't understand.

Q. Is it correct that the appointment of Prof. Krauch to the planning and carrying out of powder and explosive production was objected to by the Army Ordnance Office official, General Becker?

A. I can answer this question very definitely.

Q. Was a compromise achieved to the effect that Krauch should not be concerned with planning and execution of powder and explosive production, but with the control of this field only?

A. I shouldn't put it that way, but I have the following to say in this connection. Long before the appointment of Professor Krauch to become the plenipotentiary general, there was a department with us in the Army Ordnance Office that planned for years, that constructed for years.

MR. SPRACHER: I object to the answer as being unresponsive, and to the question as being beyond the scope of this affidavit.

THE PRESIDENT: What have you to say to that, Dr. Boettcher?

DR. BOETTCHER: My question only served the purpose of delimiting the fact whether Professor Krauch was responsible for planning and development, or whether his activity was only one of control of constructions desired by the Army Ordnance Office. That question can be answered by "yes" or "no".

THE PRESIDENT: That question cannot be answered by "yes" or "no" exactly.

THE PRESIDENT: Answer it just as briefly as you can.

BY DR. BOETTCHER:

A. The plans in the field of powder and explosives and chemical warfare agents were made by reason of the demands that the army made and the drafts that the army general staff demanded. I already said that before. With this planning and carrying out the corresponding expert departments of my office were always occupied, and they remained so occupied after Professor Krauch was appointed. Professor Krauch, it is true, because of this appointment, because included in this field, but I can say very simply that all these plants that were constructed after the appointment of Professor Krauch had already been planned by us for a long time previously and that they would have been built even if he had not been appointed.

Q. Thank you very much.

One last question. Were the facts on which you had to work in

your official capacity of such by sheer extent and character that they constituted armament of Germany for the purpose of a war?

MR. SPRACHER: Just a minute. There's no word in the affidavit about this whole question.

MR. BUSTICHER: I beg your pardon. The witness says that - and this is on page 2 - that he was competent for the demands in powder, explosives and chemical warfare agents in the case of war and for carrying out the entire production plan of these agents.

THE PRESIDENT: The objection is overruled.

BY MR. BUSTICHER:

Q. Then may I repeat my question.

The facts with which you had to deal in your official capacity, according to their scope, were they of such a nature that they constituted an armament of Germany for the purpose of a war of aggression?

A. Under no circumstances, for whoever has any kind of an understanding of the demands of a total war and whoever has any idea of the demands of industrial production, and whoever knows by reason of this foreign experience that I had what production capacities were available on the other side. That person could only be frightened when he realized that the war started in 1939.

Q. Were these facts known to Dr. Krauch also?

A. I believe that whoever know Prof. Krauch's industrial position and his knowledge, must answer this question in the affirmative.

Q. Thank you very much.

THE PRESIDENT: Any further cross examination.

Gentlemen of the defense, the Tribunal has no reason to complain of the expedition of this cross examination.

How about the redirect?

MR. SPRACHER: I don't suppose we can tell whether you'll complain until after you have heard it.

THE PRESIDENT: Very well.

BY MR. SPEECHER:

REDIRECT EXAMINATION

Q Dr. Ehmman, were you talking about production capacities or actual production when you gave your figures in response to the questions by the defense counsel for Dr. Ambrose?

A Yes.

Q I don't think you understood the question. I asked you if you talked about capacity or actual production.

A Excuse me, I was talking about both. I talked about the capacity at the beginning of the war, about the capacity at the end of the war and, my third point of investigation, about the actual production that was achieved.

Q Did your figures take into account intermediate products or did they take into account only the final making of the end product?

A My figures contain, of course, the finished chemical warfare agent as it was used in the shell or in the bomb.

Q That is the end of the redirect.

THE PRESIDENT: That is very good also. Witness, you are excused. Aren't we too late to start another witness?

MR. SPEECHER: I think so, Mr. President.

THE PRESIDENT: You may want to use a bit of the available time for your plans tomorrow.

MR. SPEECHER: Notice has been given with respect to the following affiants as witnesses who are still not questioned: Guenther Schiller; Rudolph Huehnermann; Max Winkler; Karl Kueller; Schmied-Loesberg; Albert Eckert; Anton Reithinger; W. Rafelsberger.

THE PRESIDENT: Do you know which of these witnesses you will most likely use in the morning?

MR. SPEECHER: Yes, I think Schiller, Huehnermann, and Winkler but in all those cases I think we can safely say we have gotten past the witnesses who have given several affidavits and in almost each case the affidavits narrow down to one point and I think we shall be able

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to run through those I have discussed, tomorrow even on the basis of some of the precedent we have made.

THE PRESIDENT: Any other announcement from the Prosecution? Do you have anything Mr. Dubois? Anything from the defense? The Tribunal will rise until 9:30 tomorrow morning.

(A recess was taken until 0930 hours tomorrow morning.)

Official Transcript of American Military Tribunal
VI in the matter of the United States of America
against Karl Krauch, et al, defendants, sitting at
Nuremberg, Germany, on October 30, 1947 Justice
Shake presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal VI.

Military Tribunal VI is now in session.

God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshal, are the defendants present?

THE MARSHAL: May it please your Honor, all of the defendants are
present.

THE PRESIDENT: Does the Prosecution have any announcements before we
start?

MR. SPRINGER: Mr. President, with respect to the written motion of
Defense Counsel on behalf of the Defendant Kugler, in connection with an
affidavit, the Prosecution received its copy of that motion only
yesterday afternoon, and therefore, we would like the time over the week-
end to be able to make answer.

THE PRESIDENT: It was some departure from the regular procedure. The
papers came to us with the original German copy and no translation, and
the President ordered the translation, which only came in yesterday. We
intend during the day to call the matter to your attention, so you need
not be disturbed. We will give you time to make your response.

In this connection, in just going over the papers in a cursory way,
we noted that there is a reference to some statements or affidavits
made by this defendant that are not in the files submitted to us, and
a statement to the effect that there was one questionnaire or affidavit
or something of the character which the Defendant Kugler had made, and
which Counsel for the Defense had requested, and had not been able to
obtain.

When you get the file, will you check up, please, on that matter and

get us a complete picture of the matters referred to, and then you may also file your response, and we will hold it in abeyance until you have an opportunity to do that, and if you wish the original files, you can get them at my office.

Will that be satisfactory?

MR. SPRECHER: Yes, Mr. President, what you want is any copies we have of any of the interrogations referred to, even if they were before 1946, or '47, when OGC came into the picture?

THE PRESIDENT: That is right, and you can identify the documents that are mentioned or referred to, by examining the files that we will turn over to you.

MR. SPRECHER: Thank you.

DR. GIERLICH: Mr. President, I am speaking for Counsel Henze, who is absent. For clarification may I say that this statement is not an examination of the Defendant Kugler, but a revocation of what he stated in interrogations in the spring of 1947 here in Nuremberg.

There are three statements involved; two of them were submitted to Mr. Henze by the Prosecution and appended to his motion, but the third statement is missing, which Mr. Henze says has not yet been received from the Prosecution.

Mr. Sprecher would perhaps be kind enough to give us the third revocation statement.

THE PRESIDENT: We will see that you all get a timely opportunity to make your responses after the papers have been supplied, so you need not be concerned about any advantage being taken of you in the matter of time here until you have had an opportunity to make your responses.

We will let the matter stand in abeyance until that time.

Is there anything further, Mr. Prosecutor, in a preliminary way?

MR. SPRECHER: No, Mr. President.

THE PRESIDENT: Does the Defense have any announcements or any other matter that it wishes to call to the attention of the Tribunal before we start? Then the Prosecution may call its next witness.

MR. SPRECHER: As the next witness the Prosecution calls Rudolf Huenermann.

The document involved, Mr. President, is Exhibit 853. That is NI-9827, which is found in your book 47, English page 11 and German page 41.

THE PRESIDENT: The Marshal will bring in the witness.

MR. SPRECHER: The Prosecution will withdraw Paragraph Three.

THE PRESIDENT: Mr. Marshal, will you help the witness adjust his ear-phones so that he does not have to hold them? The witness will remain standing for the purpose of being sworn, raise his right hand, say "I", and state his name.

THE WITNESS: I, Rudolf Huenermann ...

THE PRESIDENT: The witness will now repeat after me:

swear by God, the Almighty and the Omniscient, that I will speak the pure truth and will withhold and add nothing.

(Witness repeated the oath.)

THE PRESIDENT: The witness may be seated.

The witness is with the Prosecution.

DIRECT EXAMINATION

RUDOLF HUENERMANN

BY MR. SPRECHER:

Q. Prior to the German collapse in 1945, witness, you were a general in the German army; is that correct?

A. Yes.

Q. And since the German collapse you have been held in confinement by the Allied authorities; is that correct?

A. Yes.

Q. Witness, the Tribunal has before it a copy of your affidavit, which we have marked here as Exhibit 953, that is NI 9827. Do you have a copy of that with you witness?

A. Yes, I have a copy.

Q. Now, first, witness, we have withdrawn Paragraph 3 as being unnecessary in this proceeding at this time, so you do not have to make any

reference to that paragraph in your testimony here today.

Did you go over that affidavit with one of the representatives of the Prosecution yesterday?

A. Yes, sir.

Q. And you indicated several corrections that you desired to make after the passage of at least two months since you made this affidavit; is that right?

A. Yes, sir.

Q. Witness, would you indicate what these corrections are, and state the place? As I understand it, the first one is in the first paragraph, where you want to say, "From approximately October 1937", putting in the word, "approximately"?

A. "From October 1937 to approximately the middle of 1938". That is where "approximately" should go.

Q. Thank you. And then in the middle of that paragraph you have an addition. Will you make that in your own words, please?

A. May I read that sentence to establish the connection?

THE PRESIDENT: Witness, will you first indicate to us where you wish the sentence inserted?

THE WITNESS: In the middle of the first paragraph. I say, "The cooperation was so oriented that the military economics staff could handle general questions such as," and here I want to add, "armament industries, foreign raw material questions, production figures, capacities, and so on."

THE PRESIDENT: Thank you.

BY MR. SPRECHER:

Q. Would you proceed, please, to your next alteration?

A. At the end of the last paragraph, I want to add after "Our own judgments of foreign states," I would like to add that word, "foreign states", "were top secret."

Q. Is that addition clear, Mr. President?

THE PRESIDENT: Yes.

BY MR. SPEICHER:

Q. And do you have any corrections in the second paragraph, Mr. Witness?

A. Yes. In the second paragraph, at the end, I should like to add, "inquiries on nitrogen production of Americaduring the war."

Q. Now, the next paragraph has been withdrawn, so it will not be necessary for you to make any statements about that. Do you have any other additions or corrections which you think it necessary to make?

A Only a formal correction. My name has no "h" in the middle.

Q Just a signature; I am sorry.

Is there anything else, witness, so that this affidavit states the full picture from your view?

A No.

MR. SPRECHER: No further questions, Your Honors.

THE PRESIDENT: Now, witness, the Tribunal expects you to testify fully and freely with respect to any questions that may be put to you, but you need not concern yourself to make extensive explanations. You can rest assured that if you briefly answer the questions and counsel wishes further information, additional questions will be asked.

Just one thing further. Before you are two bulbs, one yellow and one red. These signals are necessary on account of our translation system. The Tribunal will not directly hear anything that you say. We will get it remotely after it has been translated into English. That does require a short pause between questions and answers, so that the translation can be made. The yellow light is a warning from the translating staff that you are going too rapidly, and is a request that you slow down. The red light is used only when it is necessary to completely stop, in which event you will be told when you can proceed.

The defense may cross-examine this witness.

CROSS EXAMINATION

RUDOLF HUENERMANN

BY DR. LINGENBERG (Counsel for the Defendant Ilgner):

Q Witness, permit me to put a few questions in regard to the affidavit. Witness, in this affidavit you say that it had been the task of the Military Economic Department of the OKW, among other things, to work on the military economic system. Can you tell me whether that was a function which resulted as a matter of necessity within a modern army?

A Yes.

Q Was that a function which was performed in a similar manner by the armies of the other large countries?

A As far as I know, yes.

Q Witness, is it true that it was self-evident to you from the first that the cooperation of private enterprises with the Military Economics staff was based on regulations by the authorities?

A It was a matter of course for us.

Q Would industry as a whole, or Farben, have been able to refuse to cooperate with the Military Economic Staff?

A I believe not; other firms did the same thing.

Q Thank you. You state further in your affidavit that one of your sources of information was the Economic Research Department of Farben. Is it known to you, witness, that the studies made by this Economic Research Department of Farben were distributed far and wide?

A Yes, I know that other offices which were competent for these questions received these reports as well. That is the Vorstand, the Minister of Economics, and so on.

Q Do you know that at least up to the beginning of the war, these drafts were available to anybody who wanted to have any relations with Farben, who had any contact with Farben, - that is, up to the beginning of the war?

A No, I do not know that, for I do not know the regulations which were in effect for the distribution list of Farben.

Q Well, witness, in your affidavit you say, where you speak about the cooperation between the Military Economics Department and the Economic Research Department during the war, is it correct that the Military Economic Staff of OKW at the beginning of the war, originally had the intention to take over the Economic Research Department of Farben, with all of their experts and their materials, in order to use them exclusively for their own purposes during the war? Do you know anything about that?

A I know no details, but I know that this intention existed.

Q Perhaps you know, and this is going to be my conclusive question, - that it was as a result of the special efforts of Herr Kruger,

who was manager of Berlin NW 7, that resulted in preventing such a taking over of the staff; he did this by offering to make available all of the work that might be asked by the Military Economics staff.

A I do not know that.

DR. GIERLICH: I have no further questions. Thank you.

THE PRESIDENT: Is there any further interrogation of the witness by way of cross-examination?

Since none appears-----

JUDGE HEBERT: Mr. President, I have one question I want to ask.

Witness, with reference to your correction at the end of the second paragraph of the affidavit, you stated that these inquiries were during the war. Do I understand that you mean this inquiry about America's nitrogen production, - do you mean during the war with the United States, - that is, after the end of 1941?

THE WITNESS: I cannot fix the date exactly, but I remember that the Economic Research Department gave us a list in which they gave us the production capacities for nitrogen in America.

JUDGE HEBERT: Very well.

THE PRESIDENT: Is there any further examination of this witness desired, by either the defense or the prosecution? (No response)

Then the Tribunal will excuse the witness, and the Marshal will escort him from the box.

You may call your next witness, so that the Marshal may bring him in.

MR. SPRECHER: As the next witness the prosecution calls Dr. Anton Reithinger. The affidavit, Your Honors, is Exhibit S43, which is NI 4875. That is in Document Book 46, English Page 99, German Page 117.

THE PRESIDENT: Thank you.

MR. SPRECHER: If you have the book before you, I have some remarks to make.

THE PRESIDENT: Just let the witness be seated for the moment,

until we get the record in mind here.

Vary well, Mr. Sprecher.

MR. SPRECHER: The Prosecution will withdraw from this affidavit, Paragraph 1 and 2, so that the matter with which the Tribunal must concern itself will begin with Paragraph 3, "War Activities of VOWI" and runs to the end of the affidavit.

THE PRESIDENT: Do you mean by that the numerical paragraphs?

MR. SPRECHER: Yes, Mr. President.

THE PRESIDENT: Then you would take out all of that part under No. 1, "Establishment of VOWI". That would all go out?

MR. SPRECHER: Yes.

THE PRESIDENT: And all of that No. 2, designated as, "Activities and Functions of VOWI". That would all go out?

MR. SPRECHER: Yes, Mr. President.

THE PRESIDENT: Then with what do you conclude the elimination?

MR. SPRECHER: If you go over to page 3 of the mimeographed copy of the English, there is a numbered paragraph 3, "Wartime activities of VOWI".

THE PRESIDENT: That will then be the starting of your affidavit?

MR. SPRECHER: That's right.

THE PRESIDENT: And you will keep in all that follows that No. 3 paragraph?

MR. SPRECHER: That's right.

ANTON REITHINGER, a witness, took the stand and testified as follows:

BY MR. SPRECHER:

Witness, state your full name please.

THE PRESIDENT: He has not been sworn.

MR. SPRECHER: I am sorry.

THE PRESIDENT: Witness, will you please stand for the purpose of being sworn.

Raise your right hand, say, "I", and state your name.

A I, Dr. Anton Reithinger.

Q Repeat this oath after me:

I swear by God, the Almighty and the Omniscient, that I will speak the pure truth, and will withhold and add nothing.

(The witness repeated the oath)

THE PRESIDENT: The witness may be seated.

Just an admonition, witness, before we start the examination, please understand that you are perfectly free to testify full and freely in response to any questions that are asked you. However, it is the desire of the Tribunal that you make your answers brief and direct, and avoid any unnecessary comment.

You can rest assured that if your answers are deemed incomplete, counsel will ask another question. Just one thing further: before you are two signal lights that are connected with our sound system. The Tribunal will not hear anything that you say to us in German. It will have to be translated. It is necessary on that account that there be a slight pause between questions and answers, so that the English translation is communicated to us. The yellow light, when it is flashed, will indicate that you are going too rapidly, and it is a request that you slow down. The red light is a stop signal, and if perchance it is flashed, you will completely stop, and not resume your answer until you are told that you may do so. If you will bear these things in mind, it will expedite your testimony.

The witness is with the prosecution.

DIRECT EXAMINATION

DR. ANTON REITHINGER

BY MR. SPRECHER:

Q State your full name now for the reporters.

A Dr. Anton Reithinger.

Q And your present occupation?

A I am an advising economist.

Q And what is your present address?

A Munich, Ismaninger Strasse 64, third floor.

Q And what was your position before 1945?

A Before 1945, I was Chief of the Economic Research Department of the Farben Industry.

Q You have before you a copy of your affidavit, witness; this has been numbered NI 4875, Prosecution Exhibit 843.

A I do not have it.

Q I beg your pardon. I am sending you a copy in the German language.

(Document handed to witness)

A Thank you very much.

Q You will notice, Dr. Reithinger, that I have stricken, on your copy, paragraphs 1 and 2, because these paragraphs have been withdrawn in the interest of expedition and because we consider them at this point either repetitious or unnecessary, and therefore, I will confine my questions to the portion beginning with Paragraph 3. Now beginning with Paragraph 3, do you have any additions or corrections which you consider it necessary to make to indicate a full and complete picture with respect to the wartime activities of VOWI?

A No.

MR. SPRECHER: No further questions.

THE PRESIDENT: The defense may cross-examine.

MR. SPRECHER: Mr. President, before the defense begins I would like to point out that I made a mistake, I believe, in that the original of this document was in English, and the German copy is actually a translation of the English copy, and I do not think that I made that clear.

THE PRESIDENT: While you are speaking of that, a matter has been called to the attention of the President that perhaps ought to be mentioned.

I have been reminded of the fact that some parts of this affidavit, parts that have now been stricken or withdrawn from consideration, were read into our record when the affidavit was offered. We assume, of course,

that insofar as these quotations are in the record, they will be ignored and not considered by the Tribunal in determining what is established by this evidence. Just so we understand ourselves.

MR. SPRECHER: The Prosecution certainly so views the matter, Mr. President.

THE PRESIDENT: Is that agreeable also with the Defense?

MR. BACHEM: Yes, Your Honor.

THE PRESIDENT: Very well. Then the Defense may proceed with the cross-examination.

DR. BACHEM (Counsel for the Defendant Ilgner):

Q Dr. Reithinger, first of all I should like to ask you whether in the summer and autumn of 1939, - that is the time when the second world war broke out, you were the chief of the VOWI and active there?

A Yes.

Q Did you personally participate in the negotiations of Dr. Krueger, the manager of NW 7, with the Military Economic Staff?

A No, Dr. Krueger informed me about the result of the negotiations.

Q Did Dr. Krueger at that time inform you with whom he held these negotiations?

A So far as I could see from his conversation, General Thomas and Colonel Becker.

Q Dr. Reithinger, I should like to ask you to pause a little after my questions so that the interpreter can follow with the translation.

Dr. Reithinger, in this connection did you hear the name of Colonel Huenermann?

A No, not in this connection.

Q So that I may assume correctly that Colonel Huenermann had nothing to do with these negotiations?

A I believe not.

Q Dr. Reithinger, from the information which Dr. Krueger gave you, did you know originally that it had been planned to take over all of the VOWI into the Military Economic Staff by way of drafting them?

A Yes, I know that accurately; for Dr. Krueger told me explicitly that the OKW had intended to take over all of VOWI by way of drafting them and that he succeeded by these negotiations in avoiding that, so that we merely had to make available a few of our personnel to work in the OKW.

Q Do you agree with me if I say that this was a very favorable solution for Farben?

A Without a doubt.

Q Dr. Reithinger, could Farben do anything against the drafting of its personnel for work in the military Economic Staff?

A As far as I believe, they could not, since the OKW was able at any time to draft these people who worked in VOWI or to put them into the Army, and that actually happened later on.

Q May I ask you what they actually did later on?

A A part of these people who had first been drafted were later turned over officially into the army.

Q And was that in the latter course of the war?

A Yes, with Dr. Fernau and a few other gentlemen.

Q Dr. Reithinger, do you still recall that at the time when the VOWI was drafted to work, that is, at the beginning of the war, Dr. Ilgner was not in Berlin?

A Yes, I believe that I remember that he was sick at that time.

Q Do you know for what period of time he was sick, on leave?

A I don't know any more but I think that he was absent for more than one year for recuperation from a heart condition abroad and also in Munich for several months.

Q Dr. Reithinger, after Dr. Ilgner returned -- and he returned in the middle of 1940 -- was he informed by you or by Dr. Krueger about all details of the discussions between Farben and the Military Economic Staff?

A I should assume that Dr. Krueger instructed Dr. Ilgner generally about events, since he was his deputy, but since Dr. Ilgner was very busy and was not so much interested in the VOWI, I believe this did not take place in very great detail, but I should assume that he was generally informed.

Q You, Dr. Reithinger, did not give any details, to Dr. Ilgner?

A No, I assumed that the deputy manager would inform him about the principles of policy.

Q Dr. Reithinger, did Dr. Ilgner after he returned in the summer of 1940, exert any influence on the relations between VOWI and the Economic and Armament Staff?

A As far as I know, not at all, since the relations went by way of Dr. Krueger, who was drafted with the Economic and Armament Staff, or we could get in touch with the agencies directly.

Q Would you not have to know, Dr. Reithinger, since you were Chief of the VOWI and had to do with these things directly?

A I didn't understand the question. What would I have to know?

Q Wouldn't you have had to know and notice if Dr. Ilgner had inserted himself into the relations between VOWI and the Economic and Armament Staff, since you had to do with these things?

A I believe I should have to notice, since we would have had to discuss it more frequently if he had been active.

Q Dr. Reithinger, do you agree with me that the experts of VOWI who were drafted to work for the Economic and Armament Staff could be called an extension of the Economic and Armament Staff, that is to say, could Farben exert any influence upon the type of work that was done for the Economic and Armament Staff? Would not VOWI have to undertake the work that was demanded if they were able to do so technically?

A I should like to answer the second part of your question first. Farben could not, of course, influence the missions that were given it by the Economic and Armament Staff. That was the exclusive function of the Economic and Armament Staff and the associates as far as they were able.

to do so had to carry out these measures.

Q Dr. Reithinger, a question on the matter of keeping reports of VOWI secret, that is, the reports which VOWI drafted for the Economic and Armament Staff; can you give me any details about that?

A VOWI didn't have any secret reports, first of all. In the entire VOWI there were only such reports that were accessible to anybody who wanted to use them and who had any reason to ask for them. The only confidential reports in VOWI were those that had something to do with Farben.

Q May I ask you what was confidential?

A Confidential is, for example, a report for the dyestuffs market, perhaps by reason of a directive of the Sales Department; and these reports were only available to that Sales Department, not even to any other department within Farben.

Q Please go on.

A All work for the OKW was to be stamped with the stamp "secret" by order of the OKW. The work was prepared in four copies, all of which had to be transmitted to the OKW, and we had been instructed that nobody except the man who worked on those -- and that was myself -- could see these reports.

Q Did you not even see the work which other people worked on?

A I could see them if I wanted to, but I am sure that all drafts did not go through my hands, since a part of the work for the OKW was not laid down in writing but was merely transmitted by telephone -- for instance, a figure of import-export or stock-piles which we had available from our files.

Q Dr. Reithinger, I am told that you are speaking much too fast. Please speak a little more slowly. Dr. Reithinger, did Dr. Krueger and Dr. Ilgner see these drafts that were supposed to be kept secret?

A Normally not.

Q What do you mean by "normally"?

A If Dr. Ilgner or Dr. Krueger had asked to see them I should

certainly have submitted this draft to them.

Q From your answer I conclude, however, because you say "if they had asked", that they actually did not ask?

A Normally they did not ask, but I can not say with certainty whether perhaps at one time or another, they had an interest in certain work, but as far as I remember both gentlemen were relatively uninterested in this work.

Q But you cannot give me a concrete case?

A No, I cannot do that.

Q One further question, Dr. Reithinger; at the end of your affidavit you say that you, that is VOWI, also received information from the files of the Office of the Four-Year Plan, and you say that was possible because a large number of the people who worked in this office were members of Farben. I should like to ask you, Dr. Reithinger, whether this expression or formulation is actually correct? Was it not true that you were able to get information from all agencies without any trouble, and you could get material from the Reich Office since you, in return, gave them your information? Isn't it true that you also received information from those agencies even if there were no Farben people in these offices?

A Certainly. The situation was as follows: when the war broke out all figures on domestic German production or consumption were classified as secret, and therefore VOWI had great difficulty in getting access to the material, but it was a necessity for our department to obtain material if we wanted to make further operation. As a result we tried to get material from all agencies, be it the Statistical Reich Office, be it the Reichsbank, be it.....

Q Please repeat.

A It was a necessity for us to work with all of these agencies who had the materials, be it the Statistical Reich Office, be it the Reichsbank, be it the Reich Ministry of Economics, or other agencies. In the Office of the Four-Year Plan there were a few gentlemen who knew

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our people very well, and so we had to try here too to get figures which
we needed. Under this aspect the assignment that the OKW had given us
was very agreeable to us, for otherwise we would not have been able to
receive such figures at all.

Q May I conclude from that, Dr. Reithinger, that this was not exclusively because there were a few Farben people in this office that made material available to you?

A No, by no means.

Q One more question, and I revert to the regulations for keeping material secret. I did not understand you clearly before when you said these regulations for secrecy were evolved only during the war by order of OKW?

A That's partly correct. First of all, all the work that had been done for the OKW was stamped with a "secret" stamp. Moreover, either shortly before the war broke out or when the war broke out, and a law was promulgated to the effect that all figures of German production and consumption were to be kept secret. At that time the entire statistical almanacs of Germany were called in, or classified as "secret". As a result, a large part of our work automatically became secret, since it became production figures, consumption figures, or export figures, and as a result a large part of the work that had already been done in 1929, 1930, etc., automatically had to be stamped with a "secret" stamp because it contained figures about German production.

Q If I understand you correctly, these were regulations which did not specifically apply to the VOWI but quite generally to German industry and German life?

A Yes, by law of the Reich.

Q One final question. Do you know whether other national economy institutes were drafted to work for the OKW during the war?

A Yes, of course. Besides our department, the OKW also called especially upon the Wagemann Institute of Analysis and Research, the Kiel Institute for Economy and Ship Movements, and a number of university institutes, and the various archives of the big Berlin Banks or Berlin big industry. I assume that that was handled similarly in all countries.

Q It is not then a measure which applied specifically to Farben?

A By no means.

Q Thank you very much. I have no further questions.

THE PRESIDENT: Any further cross examination? (No response)

Mr. Witness, may I take advantage of this opportunity to remind you of what the Tribunal said about talking slowly and answering briefly? It will help if you will co-operate with us.

BY DR. VON KELLER:

Q Dr. Von Keller for the Defendant von Schnitzler. Witness, may I ask you for information? Do you remember a resolution of the Commercial Committee of 20 August 1940? I read the paragraph in question: "Work of the Economic Research Department of Farben for Official Agencies. Dr. Reithinger reports" ... that's Book 47, page 55 in the German, and I quote very slowly so that no difficulties will arise?

"Upon Mr. Mann's suggestion, it is resolved that the members of the Commercial Committee should have the subject matter of the various meetings available."

That is, that the Commercial Committee should be given a list of the work to be discussed. Do you still remember the contents of this resolution?

A Yes, very well.

Q Was it executed and obeyed subsequently?

A It was followed insofar as I compiled a list of all work done in the VOWI every month, and this list was submitted to the Vorstand.

Q Is it correct that this list referred especially to the work which was not requested by official agencies?

A I should like to say that this list did not contain the work done for the OKW.

Q Did the work that you did for the Sales Combines have any causal connection with the reports that you draw up for the official agencies?

A That is difficult to answer. We had a lot of work of a general nature for the purpose of informing the sales combines but not asked for by the sales combines, moreover, a number of reports had been

requested by these sales combines, that had something to do with Farben.

Q I have a final question with respect to reports prepared by you. Did your department also undertake work on its own initiative, on subjects which were of general interest or which were brought up by the talk of the day?

A Since the sales combines were not --

THE PRESIDENT: Mr. Witness, that was a very plain and simple question. Can you answer it "yes" or "no", whether you did make such reports on your own responsibility and then leave it to counsel to decide whether he wants to know any more about it?

A Yes, I can.

THE PRESIDENT: Very well.

A That's correct.

DR. VON KELLER: I have no further questions.

THE PRESIDENT: Any further cross examination? (No response)
None requested. Any re-direct examination?

REDIRECT EXAMINATION

BY DR. SPRECHER:

Q. Just one or two questions, Mr. President.

Dr. Reithinger, did the work which the VOWI Staff had to do for the OKW take place principally on the premises of NW 7, or did it principally take place in the OKW research offices?

A. Principally in the VOWI offices.

Q. Now, in connection with this classification of such things as year books as secret, did that constitute any interference with some of the work you had to do before the war broke out, so far as you remember?

A. No, that had no influence.

Q. Well, did it make things any more difficult for you because these things were classified?

A. Of course, during the war.

Q. Well, I'm asking you if there was any interference in the research activities of your organization because of classification as "secret" with respect to documents, before the war broke out?

A. No, because before the war broke out, certain things were never classified as "secret". At least, I can't remember that.

Q. Well, a lot of things, of course, weren't classified as "secret" even after the war, but I'm talking about only those things that were classified as "secret" or "highly confidential". You get my point?

A. Yes, but I believe that that did not influence our work at all.

Q. Well, were any substantial part of the materials that came to your attention in VOWI, before the war, classified as "secret"?

A. No, by no means.

Q. Well, were any of them?

A. I believe that before the Reich laws on the subject were promulgated, nothing was secret.

Q. Do you know what the "secret" stamp looks like? You saw it?

A. Yes.

Q. Did you see in any documents that had the "secret" stamp on it before the war broke out, or didn't you?

A. I cannot remember to have seen this large stamp before the war. We had to stamp most of our work, after the war broke out, because of the Reich law.

Q. Dr. Reithinger, my point is limited to the point before the war broke out. Didn't you see a considerable number..... Let me ask it this way. Tell us whether or not you saw a considerable number of Farben documents or OKW documents which were classified as "secret", before the war broke out?

THE PRESIDENT: Mr. Prosecutor, it may be confusing....

THE WITNESS: No, we didn't have any OKW documents before the war, nor did we have any Farben documents that were stamped with the "secret" stamp, as far as I can remember.

THE PRESIDENT: Very well.

MR. SPRECHER: No further questions.

THE PRESIDENT: Any further cross-examination?

Then the witness may be excused. The Marshall will escort him from the box.

The Prosecution may call its next witness.

DR. NEWMAN: If your Honors please, our next witness will be Mr. Eckert, and the document involved.....

THE PRESIDENT: Just a moment. In the meantime, the Marshal may bring in the witness Albert Eckert.

Now you may go ahead and give us your book references.

DR. NEWMAN: The document involved is NI 7367. This is Prosecution Exhibit 397. English book 56, page 84, which is page

121 of the German book.

THE PRESIDENT: Thank you.

The witness will remain standing for the purpose of being sworn, raise his right hand, say "I", and state his name.

(ALBERT ECKERT, a witness, took the stand and testified as follows):

THE WITNESS: I, Albert Eckert.....

THE PRESIDENT: The witness will not repeat after me the oath:

"Swear by God, the Almighty and the Omniscient, that I will speak the pure truth and will withhold and add nothing."

(The witness repeated the oath.)

The witness may be seated, and the Prosecution may ask.

DIRECT EXAMINATION

BY DR. NEWSMAN:

Q. Will you please state your name once more for the record? Your name.

A. Albert Eckert.

Q. Where are you residing at present?

A. Frankfurt on the Main.

Q. Please give the street address.

A. Winterbachstrasse 5A.

Q. Do you have a copy of your affidavit, our Document 7367, before you?

A. Yes.

DR. NEWSMAN: If Your Honors will permit, we would like to strike out one paragraph from this document on page 2 of the English stencil, page 85 of the book, the second paragraph beginning with the words, "I read anew", and going down to "actually correct", and if you will see your German stencil, this is the last line on page 2, beginning with the words "Ich habe" and on page 3, the eighth line ending with the words "weiss ich nicht".

The reason is, Your Honors, there is reference in that paragraph to a document which, in order to save documentation, we later decided not to present, and so this paragraph is no longer comprehensible.

THE PRESIDENT: Very well.

BY DR. NEWMAN:

Q. Mr. Witness, is there anything you want to state in addition to your affidavit?

A. No.

Q. Are there any corrections you would like to make?

A. No.

Q. Thank you.

BY THE PRESIDENT:

Q. The defense may cross examine the witness.

Mr. Witness, before you came in, was the sound system and translation problem explained to you?

A. Yes.

Q. Please bear that in mind, and also make your answers as brief and direct as possible.

A. Yes.

Q. And do not feel called upon to volunteer any information, because, after you have answered a question, if it is deemed to be insufficient or incomplete, counsel is free to ask further questions. Please bear that in mind. Speak slowly and distinctly.

CROSS EXAMINATION

BY DR. HENZE (Counsel for the defendant Kugler):

Q. Dr. Eckert, in your affidavit you speak repeatedly about the acquisition of the Polish dyestuff factories. May I ask you, were these factories acquired in 1939 as the property of Farben?

A. The factories were not acquired in 1939 as the property of Farben, but only at a later date.

Q. What happened in 1939, if they were not acquired as property?

A. In 1939, two gentlemen of Farben were appointed as commissars or managers.

Q. Were they responsible to Farben in their capacity as commissars?

A. As far as I know, not. As commissars they were responsible to the German Government - that is, the Reich Ministry of Economics.

Q. Can you tell me briefly what factories are concerned?

A. The Boruta plant, the Winnica plant, and the Wola plant.

Q. Which of these factories was acquired later on?

A. Boruta was acquired, and those shares of Winnica were acquired which were in the possession of the French dyestuffs group, and the Wola was not acquired at all.

Q. Do you know who had been the owner of the Boruta previously?

A. The proprietor of the Boruta as far as I know, was primarily the Choswodaswa Bank - that was the Polish State Bank.

Q. Do you know that, as a result of measures initiated by the German Reich, Polish state property was confiscated, because it was said that the Polish state had ceased to exist?

A. I believe that I can remember that in 1940 or 1941 such regulations were issued by the government, but it may have already been in 1939.

Q. Dr. Eckert, to what extent was Farben interested in exerting influence on these factories?

A. It was interested in incorporating the dyestuffs production in the Polish territory into German production plans.

Q. Did Polish production play a large part, as compared with the production of Farben?

A. No.

Q. Wasn't it also interested in eliminating other agencies which might have disturbed the peace in the dyestuffs market?

A. That was the reason why Farben was interested in the Polish dyestuffs factories. As I stated in my affidavit, Nazi circles had certain people to whom they wanted to assign the Boruta plant. These people had no idea about dyestuffs production and, therefore, the Polish factories would have become a source of disquiet and trouble.

Q. Wasn't it also interested in eliminating other agencies which might have disturbed the peace in the dyestuffs market?

A. That was the reason why Farben was interested in the Polish dyestuffs factories. As I stated in my affidavit, Nazi circles had certain people to whom they wanted to assign the Boruta plant. These people had no idea about dyestuffs production and, therefore, the Polish factories would have become a source of disquiet and trouble.

Q. Dr. Eckert, you worked on these questions at the time, and perhaps for that reason you may be able to answer the following question. Imagine that Farben had not done anything at the time. Do you believe that it would have been possible for the owners of the Polish factories to retain what they had, that they would have fared better?

A. No.

Q. Do you mean by that that others would have come in who would have, at least, done the same thing to them that actually happened?

A. Yes. I would even say that the workers and employees in the Polish factories would have been worse off if Farben had not taken over these plants.

Q. Do you know that the Main Trusteeship East participated in these transactions?

A. Yes.

Q. Did you know at the time that the Main Trusteeship East desired and expressed its desire openly to compensate the owners of the Polish factories?

A. I cannot say that with certainty any more. I have a vague recollection that it was discussed. The compensations which were paid for such objects were to be deposited in an account which might possibly have been used for the benefit of the former Polish proprietors.

Q. May I ask you, do you know that Farben undertook any measures to have such compensation paid? Do you know that Farben repeatedly made representations to the Main Trustee East in this connection?

A. I can not remember that.

Q. Dr. Eckert, you say in your affidavit:

"Of course, I considered the taking away of Polish property as a wrong from the state and private business point of view."

Can I understand this to mean that you want to apply this criticism to the measures of the Reich agency?

A. Yes.

Q. In this sense you also talked to other gentlemen in Farben, did you?

A. As far as I remember, but you must take into consideration that those events are eight years old and the memory is not always so reliable.

Q. Are you now of the opinion that a private business man in your position, for instance, could have done anything against such an injustice?

A. That was out of the question.

Q. Thank you.

THE PRESIDENT: Any further cross-examination of this witness?
Any redirect examination, Mr. Prosecutor?

MR. SPRECHER: None, Mr. President.

THE PRESIDENT: Mr. Witness, you are excused, and the Marshal will escort you from the box.

Call your next witness.

MR. SPRECHER: Mr. President, could I suggest that we have a very short recess now and postpone the morning recess until a little later? I'm afraid we're having a little difficulty in scheduling.

THE PRESIDENT: Well, in view of the progress that has been made in this matter, for which the Tribunal is indebted to the Prosecution and the Defense, we think you are entitled to that consideration.

The Tribunal will now rise for its morning recess and will stay out until about 11:15.

MR. SPRECHER: Thank you.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Does the Prosecution have something to say?

MR. SPRECHER: Mr. President, due to traffic difficulties, one or two witnesses, who we had hoped would be here, have not appeared. With respect to the affiant Schlotterer, because of the fact that Your Honors have not ruled with respect to the question of documents introduced in connection with Russia, the Spoliation question, so far as the documents concerning Russia are concerned, we cannot call Schlotterer at this time.

Now, the Prosecution is prepared to withdraw three affidavits concerning Count II, which have been introduced in evidence. Viewed retrospectively, we feel that these documents do not add to the documentary proof, or cumulative, or else our anticipated defense material; and the references to them in the transcript when they were offered are very brief, and I am prepared to indicate those references and to request Your Honors to strike that.

Prosecution Exhibit 1085 is NI-9163. It is found in Document Book 53, English page 53, German page 45. The document was introduced on the 22d of October. And at the English transcript, at page 2530... the references to that exhibit should be stricken on that page in their entirety and should be considered as withdrawn or stricken evidence.

THE PRESIDENT: Just for further identification, who is the author of that affidavit?

MR. SPRECHER: I beg your pardon; the author of that affidavit is Guenther Schiller.

THE PRESIDENT: Then the record will show that the affidavit of Guenther Schiller, described in the statement of the Prosecution, has been withdrawn from evidence by the Prosecution, and the statements made in the record in connection with the offer of that exhibit will, likewise, be considered by the Tribunal as withdrawn.

MR. SPRECHER: The next affidavit we are prepared to withdraw for the reasons stated is an affidavit of Walter Raffelsberger, That is Prosecution Exhibit 1066, Document No. NI-11090. That is in Document Book 52, page 44, German page 63. The references in the transcript are at pages 2516 and 2517 of the English transcript, and that was on the 22nd of October.

The Prosecution agrees to withdraw and to strike all references to that Exhibit and to withdraw the exhibit.

THE PRESIDENT: The document just described by the Prosecution is now withdrawn by the Prosecution from the evidence in this case and the Tribunal will likewise consider as stricken from the record the remarks and statements concerning that document made at the time it was offered and introduced in evidence.

MR. SPRECHER: The third and last affidavit concerning Count II which we are prepared to withdraw is the affidavit of Max Winkler, who was the head of the Main Trustee Office East. That is Exhibit 1132, NI-10727, Document Book 55, English page 30, German page 42. The Prosecution made a short reference on that document, on page 2597 of the English transcript. That was on the 23rd of October.

THE PRESIDENT: The record will likewise show the withdrawal from the evidence of the document last described by the Prosecution, and that the references to the document made at the time and in connection with its offer and introduction in evidence will likewise be considered as stricken by the Tribunal.

DR. BACHEM: (Counsel for defendant Ilgner): Your Honors, we, too, of course, are grateful that there is no need to discuss these questions before this Court. We only want to point out that the Prosecution has announced these witnesses, especially the witness Winkler, since a couple of days. We, the Defense counsel, as well as the defendants, were forced to deal with these cross-examinations and to consider these matters. The Defense counsel and defendants have been robbed of much time, which they could well have used for other

matters. Therefore, we ask that the Prosecution, in the future, announce at a much earlier date than it did today that it is going to strike passages from affidavits, or withdraw whole affidavits, so that no time will be lost which could well be used by the Defense for other matters.

THE PRESIDENT: The Tribunal well understands that the Prosecution will be expected to deal with matters of this character as promptly as possible, to save its owntime and to save the time of the Tribunal; and , likewise, save the time of the Defense. However, in the process of a trial of a case situations constantly arise that could not be anticipated. We feel that the Prosecution should not be criticized for its action in this regard, but rather commended for it.

We regret, of course, that our time was taken in the presenting of these documents . We regret that the time of the Defense was taken in preparation for the cross-examination. But, at the same time, I suspect that the Prosecution itself could have used its own time in preparing those documents and presenting them to us to better advantage if they had anticipated this. We take it, of course, that as promptly as possible after such a situation does arise again, the prosecution will advise us and the Defense so as to conserve our time.

MR. SPRECHER: Mr. President, in order to talk about our future schedule, would you permit me to make some brief references to what the Prosecution considers to be outstanding, in connection with affiant problems?

THE PRESIDENT: Yes; we would be glad to hear it.

MR. SPRECHER: The memorandum which is before your Honors entitled "Second Memorandum for the Tribunal Concerning Affidavits," etc., dated 18 October 1947, may be a convenient reference point for all of us. Even if Your Honors or Defense counsel do not have that present, I think by a few short notes you will be able to conform your copies with any information I give, insofar as you feel that necessary.

THE PRESIDENT: Mr. Prosecutor, may we suggest that some of us -- if not all of us --of the Tribunal have that list before us. It might expedite matters and bring us up to date if you would go down that complete list of witnesses and remind us of those that have been heard because, after all, some of these names are a bit strange to us and we sometimes get confused. Then you can make your timely observations about them. But just start at the top and call each witness and make your observations as you go along; and call our attention to the fact that those have been disposed of so that we can strike it and bring this list up to date.

MR. SPRECHER: Would you like to have me mention those that have been disposed of, as well as those that have not?

THE PRESIDENT: Yes; we can bring our record up to date that way, and it will be serviceable to us that way: if you just start with Hans Bannert, and go down all the way through Willi Dagne, and then make whatever observations you care to make with reference to the ones you are particularly interested in.

(Mr. Sprecher)

Hans Bannert, testified on the 29th and 30th of October, with respect to —

THE PRESIDENT: No, no. Just tell us that he has been here; that he has been cross-examined. That is all, so that we can mark him off.

MR. SPRECHER: BANNERT has testified.

THE PRESIDENT: Very well.

MR. SPRECHER: Willi Dagne gave an affidavit in connection with certain lists of participations he made. With respect to him, and later on down that page, Otto Hauck and Adolf Haele, I would like to suggest that we set a time limit when we clear up the matter, concerning those three witnesses. Those three witnesses have all given information concerning the same general subject matter, materials taken from records, and so on, concerning Farben participations in other companies.

THE PRESIDENT: What is your view about how soon you ought to be advised of that, and then we will see what defense has to say?

MR. SPRECHER: Well I had expected to have been advised about some program concerning those three witnesses before this time, and I have not been advised by the defense; perhaps it might be better to hear from Dr. Gierlichs.

DR. GIERLICH: Mr. President, I have discussed this question yesterday with Mr. Dubois. I believe that these three affidavits are typical examples of what is the subject matter of stipulations between the prosecution and the defense, or rather what should be the subject matter of these stipulations, and through which a lot of time could be saved, but before we can arrive at such a stipulation, the delegate of the defense counsel should be given an opportunity to look through this matter, in Frankfurt. I believe that one of the lists contained 700 names of firms which are given as I. G. shares in foreign countries, and there are other lists containing firms in which I.G. was interested in Germany. Since no one was in a position to interest themselves very

very closely in these matters, it was the intention of the defense that, with the help of assistants, we could come to a solution of this problem, and one delegate of the prosecution and one of the defense counsel should check these documents in Frankfurt; and I am convinced that we could come to a unanimous statement of the defense and the prosecution regarding this matter.

Otherwise, the examination of witnesses would take a lot of time, if we do not clear up the existing misunderstandings in this manner.

THE PRESIDENT: Do you feel, Dr. Gierlichs, that we may pass the matter of asking the prosecution to call these three witnesses in in the expectation that any differences with respect to the affidavit may be reconciled after the conferences, with someone who has checked the documents?

DR. GIERLICH: That is what I was going to suggest.

THE PRESIDENT: Very well. Then we will pass Willi Dagne, and what are the other two names now?

MR. SPRECHER: Otto Hauck and Adolf Hoele.

Skipping down to the third entry from the bottom, Your Honors, Otto Hauck and Adolf Hoele made an affidavit in common. That is Exhibit 42.

THE PRESIDENT: Was there a third one, or did you mean three counting Hauck and Hoele?

MR. SPRECHER: Three counting those.

THE PRESIDENT: All right. Now you can go down to Rudolf Diels.

MR. SPRECHER: Mr. President, since we are done with Count II, apart from a very few witnesses who have to be brought in to testify in connection with affidavits, I certainly feel that the time has come for the defense counsel, those who wish to do this job or those who are delegated to do this job, that can free themselves. The prosecution has been ready for some time.

We have prepared to make a representative available in Frankfurt or here at any time, in order to clear up these three matters.

THE PRESIDENT: The prosecution has no apparent arrangements. The Tribunal understands that arrangements are made that Dr. ter Heer is going to Frankfurt this week end with his counsel, to make the preliminary survey, preparatory to the check that the counsel for the defense wish to have made.

We understand that those arrangements have been completed, and perhaps we are on the way to getting that ironed out.

MR. SPRECHER: I had been informed of that recently, but I understood that was in connection with the so-called conspiracy affidavit. If that is also in connection with these three matters, naturally the prosecution would be exceedingly pleased.

THE PRESIDENT: The court is making no commitments on behalf of the defense for the prosecution, but we assume whatever can be done along that line will be done, and we can expect to have any advantage of any time saving that can be accomplished in that way.

MR. SPRECHER: In connection with our program, I should imagine that we would be done with the initial documents in Count 3 some time on Tuesday or Wednesday of next week, since I understand that we will not have a session on next Monday.

THE PRESIDENT: That is right.

MR. SPRECHER: And therefore we would like to use the balance of next week to clear up all outstanding affiants' problems in this courtroom, which means the preliminary work would naturally have to be done before that, and it had been our plan, in case with the passage of this much time, we had not been able to clear immediate matters, just to call the witness and to do the best we could in the interests of clearing the record.

I will talk to Dr. Gierlichs in the hope that we can get that matter cleared up over this weekend so that we can get it into the record by the end of next week in one way or another.

THE PRESIDENT: Very well.

MR. SPRECHER: The next three witnesses, Diels, Eckert and Ehmann have testified.

THE PRESIDENT: Very well.

MR. SPRECHER: Paula Ester is waived, and the next two, Gerr and Gross have testified. Then skipping over to the next entry, the last two witnesses on that page, Hauser and Ruehnermann have testified.

On the next page, the defense, I understand, has its own means of arranging interrogations of Jacobi in the United States. In any event if they have not, then certainly it is timely to suggest, I think, that interrogatories should be sent out officially so that later on we do not have any claim of lack of time.

The next two affiants Krueger and Kuepper, have testified.

The next affiant, Mansfeld, will be called in the week after the initial documents on Court III are before the Tribunal.

The next four witnesses on that page, Hureck, Noack, Reithinger and Rupp, have testified.

On the 4th page, Ruther is sick, and it is indicated that he is quite sick and may not be able to come. I trust that defense counsel will see me about attempting to work out a joint interrogation or something similar to that we can clear that matter up in the near future. The man is reported to me as being very sick, and I think that we could send a delegation there in order to clear up that affidavit.

Schmied-Lessberg, we will have in next week.

The next affiant, Speer, I understand the defense is arranging an interrogation of him in the prison in Berlin, and will submit a counter affidavit or something of that nature later on.

With respect to the last affiant on that page, Struss, that is the one that your Honor mentioned this morning. Dr. Berndt and I discussed yesterday the situation there. We hope that we can either present an affidavit clarifying the matter to the satisfaction of Dr. Berndt, the representative of the defense, and the prosecution by next Thursday or

else call Dr. Struss on next Thursday.

THE PRESIDENT: Now we take it, Mr. Prosecutor, that you have now no other witnesses presently available for cross-examination.

MR. SPRECHER: That is right, Your Honor. I have not quite finished with all of the outstanding affiants. So far as that memo is concerned, we have a few more. I will go slowly so that you and the defense can keep current.

There are a number of foreign witnesses, foreign citizens, I should say citizens of foreign countries, who have to be called in.

THE PRESIDENT: What you really mean is foreign nationals. You mean they are not German witnesses.

MR. SPRECHER: They are not German witnesses or American witnesses, and they are beyond the jurisdiction of this court. That is what I want to say.

THE PRESIDENT: Yes.

MR. SPRECHER: The first is Jan Dvoracek. His affidavit is Exhibit 1123; We will try to get him in, and we have already put out the order, and when he comes we will submit him at the earliest possible time. I am hoping that the defense will waive concerning an affidavit by Frank-Fahle, where he merely lists the contents he found in meetings of the Commercial Committee. That is NI 9289, but if they do not, we will call him toward the end of next week.

The next witness outside of the jurisdiction of the court, is Jose Horynk. His affidavit is Exhibit 1122. We have also requested that he come in.

The next witness beyond the jurisdiction of the court of Josef Joham, Exhibit 1067. We hope that he can come in in a week or ten days.

The next is Franz Kacprzak. The affidavit is Exhibit 1162. We have requested that he be brought in.

The next witness beyond the jurisdiction of the court is Franz Klecks. That is Exhibit 1121. We have requested that he be brought in.

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We have requested all of these people to be brought in because we have had a little difficulty concerning any waiver, but if the defense still does make a waiver on any of them, we will entertain the gentlemen and send them back to the country from whence they came.

(Mr. Sprecher)

The next witness is one we expected yesterday and he has not arrived yet, Karl Mueller. We will put him on as soon as we have finished the initial documents on Count III early next week.

The next affiant, Franz Rottenberg, gave an affidavit, in evidence as Exhibit 1068. Rottenberg is in Austria. He is a very sick man. He does not want to leave the place in which he resides to come out to Nurnberg, or anywhere else.

It is a special problem which I think the defense should talk over with us; if necessary, it may be a proper case for cross-interrogatories or some other appropriate solution.

The affiant Schletterer is the affiant who gave an affidavit involving the spoliation case in Russia, so that must be suspended until your Honors' rule.

So far as the prosecution knows, from checking its records, on rather short notice, that covers the problems at present outstanding, except for the following.

The prosecution has given a list to the administrator, the General Administrator for the Defense Counsel, Dr. Mueller, of all the affiants who will come in under Count III, excluding Auschwitz, and medical experiments. That is on what might be called, the general slave labor program, insofar as those defendants are involved.

With respect to the first five affiants who are beyond the jurisdiction of the court, the defense indicate they want them all brought here, and we have undertaken measures to bring them here at the earliest possible moment.

Now with respect to future plans, if I may make a few suggestions?

THE PRESIDENT: Yes, surely.

MR. SPRECHER: I would like to suggest that we go into recess now until this afternoon, and that then we begin with the documents on Count III, — the initial documents on Count III, that is, covering the so-called general slave labor program, and excluding Auschwitz, and the experiments, are found in five document books, most of which have been in the hands of the defense for some time. These books are 67, 68, 69, 70 and 71.

Mr. Van Street will present those materials to the Tribunal. He is prepared to go on after lunch. I do not think you will need more than the first three document books to begin with this afternoon. Now there is one problem which I would like to take up with defense counsel.

I understand that the defendants do not go back to their cells in the Nurnberg Jail until evening, and therefore, since they have not had prior notice, they probably have not brought these books with them. The prosecution, and I am sure the Marshal, will cooperate in every way to get those books before us. If there is any problem about it, if the defense will indicate it to me, I will try to do what I can in order to rectify that situation.

THE PRESIDENT: Do you have any comments, Dr. Boettcher?

DR. BOETTCHER: Mr. President, I have no comments to make regarding this question, but I do regarding another question.

THE PRESIDENT: Very well. While you are before the Tribunal, can arrangements be made during the noon hour with the cooperation of the Administrative Staff to get the books that you will need this afternoon under the Prosecutor's announcement?

DR. BOETTCHER: Yes, thank you.

THE PRESIDENT: Very well. Thank you. Did you have something else you wanted to say?

DR. BOETTCHER: Mr. President, I want to support what Dr. Gierlichs just said, and I want to say this. It would certainly simplify matters for the defense if we knew when we are going to get an answer from the

Administration regarding our application for 8 assistants and 8 secretaries. We have made preparations in case this application is granted, to start work, but we are still waiting for it.

THE PRESIDENT: The Tribunal may say that on principle, that matter has been approved by the Administrative agency. It is only a matter of detail which we will necessarily have to work out with defense counsel, and it was the President's thought that perhaps we had better not undertake to make the order, and to be specific, until after the defendant, ter Meer, and his counsel, return from Frankfurt and we have the benefit of what observations you might wish to make in the light of that experience.

Are we correctly advised that the defendant ter Meer and his counsel plan to go this weekend to Frankfurt? Is that your understanding?

DR. BOETTCHER: Yes, so far as I heard, this is correct.

THE PRESIDENT: Then the Tribunal would suggest that unless you have a different thought about it that the first of the week, after the return of the defendant and his counsel, that we will have an informal conference with representatives of the defense staff, and then prepare and place on record the formal order providing for the committee. Is that agreeable?

DR. BOETTCHER: Yes, Mr. President. May I just mention one other point. Document 67 has been withdrawn so far, - document book 67.

MR. SPRECHER: Another defense counsel just pointed out to me that in his opinion the corrected document book 67 had not been returned to the defense.

I talked to Mr. Van Street about this matter yesterday, and he said that in the first place, they had only gotten back around 15 to 20 of the total of 40 or so that they distributed to the defense, and therefore they had not been able to make all of the corrections in the original document books, and therefore they had made the corrections in the usual way, which is by sending out the usual notices without making insertions of corrections. So, under the circumstances, the prosecution feels that

it has acted as assiduously as could be expected under the circumstances, and I think we will be prepared to see that all defense counsel have proper notice of what is within Book 67 this afternoon.

THE PRESIDENT: In view of our rather liberal practice here of permitting objections to be made to documents, even after they have been received in evidence, the Tribunal does not believe that the defense would be handicapped. If you find that you are taken by surprise as to some document, and subsequently determine that you want to make an objection that you did not have an opportunity to make because of the bit of confusion over this book, our practice is to permit you to do it anyway.

DR. REINTGES: Mr. President, may I remark to this point, that Document Book 67 is very large. Its fundamental discussions are about slave labor. This volume, after it had been given to us, was withdrawn, and the copy I had was not returned. I do not think that we are in a position to work through these fundamental statements which are important for every defense counsel and defendant, unless we get this copy back.

In the latter books only the single firms and plants are mentioned, but this first book, which is of basic importance, can only be dealt with properly, in our view, if we get the book in its old or in its revised form. I, unfortunately, had not had mine returned.

MR. SPRECHER: Mr. Van Street is already checking with the administration to see where, if at all, there is some breakdown concerning the 15 or 20 copies which the prosecution managed to extract from the defense. We will see through some way that a few of the old copies, or revised copies, are returned.

THE PRESIDENT: Counsel for the defense, if that is done during the noon hour, with the reservation of your right to raise questions subsequently concerning the exhibits that may be contained in Book 67, don't you think that we can go along?

DR. REINTGES: Well, Mr. President, this is not only a matter of

receiving exhibits and to hear the prosecution's documents, but with the basic documents which are offered in this book, we could have started earlier and in order to refute the very weighty charges under Point III, with the help of this book, since the basic book has been taken away from us 10 days ago, this was not possible for us.

I regret that this is so necessary for our work, but I could not do anything in order to get this volume back. It may be that we can follow today, but the withdrawal of this most important book has caused a considerable delay in our work.

THE PRESIDENT: The Tribunal views the matter under the general practice that there is no such thing as distributing books in advance, and a defendant never knows under the practice we are familiar with, what document the prosecution is going to offer, or what it may contain, until it is explained to him when it is offered in evidence.

We think that with the liberalism that we indulge in with reference to objections, that you cannot be harmed. After all you are not required now to make a defense. The only substantial right you would have would be to object to the introduction of the document.

We do not deny you that right subsequently, so if there is nothing further, the Tribunal is about to recess until one-thirty, at which time we will start to hear the documents in these books.

We feel that the time in the last twenty minutes that we have spent in getting on the record, the situation concerning the witnesses is helpful to all of us, and we will have the record before us.

The Tribunal will now rise until one-thirty.

THE MARSHAL: The Tribunal will be in recess until 1330 hours.

(Court in recess until 1330 hours)

AFTERNOON SESSION

THE MARSHAL: Military Tribunal No. VI is again in session.

THE PRESIDENT: We are short of our quorum, I fear. Will some of your associates be in a little later, Gentlemen? Very well. The prosecution may proceed.

MR. VAN STREET: If your Honors please, we now come to the prosecution's evidence on Point A of Count III of the indictment. This is entitled; "Role of in the Slave Labor Program", and is found in the indictment at page 92 through the middle of page 99. The prosecution's position as to the guilt of these defendants in this aspect of the case is set forth generally in the opening statement at page 164 through the second paragraph of Page 169. It is the prosecution's theory that manpower as one of the predominant problems of the German War Economy and of Farben, naturally and automatically came to the attention of these key Farben people as members of the Vorstand and in other positions within Farben, just as such problems came to the attention of high officials of the Nazi Government, as, for example, Goering, who said before the IMT in admitting his complicity in the use of slave-labor:

"We did use this labor for security reasons so that they would not be active in their own country and would not be working against us. On the other hand, they served to help in the economic war."

And again Goering said:

"Workers were forced to come to the Reich. That's something I have not denied."

The Tribunal is respectfully requested to take judicial notice of that passage which is found at the top of page 281, Vol. 1 of the trial of the major war criminals before the IMT.

It is further the Prosecution's theory that in determining the guilt of these defendants that the aggressive war count and the slave labor count should be considered as closely related because of means of conducting the aggressive war was made possible through the use of slave labor. Conversely, without the use of slave labor, which kept the armament in-

dustury going, the continued acts of aggression could not have occurred. The former, it is our belief, inevitably complements and supports the last. I now quote from the top of page 244, Vol. I, of the trial of the major war criminals before the IMT and ask the Tribunal to take judicial notice of this quotation:

"By the middle of April 1940 compulsory deportation of laborers to Germany had been ordered in the Government General and similar procedure was followed in other Eastern Territories as they were occupied."

The aggressive acts occurring after the middle of April 1940 were 10 May 1940, when the Netherlands, Belgium and Luxembourg were invaded by Germany; 6 April 1941, when Greece and Yugoslavia were invaded by Germany; 22 June 1941 when Russia was invaded by Germany and 11 December 1941, when Germany declared war on the United States.

It is our purpose to show that from 1941 to early 1942 practically everyone in Germany regardless of location and these in high positions, as were these defendants, knew that the recruitment of foreign workers was forced recruitment; in spite of this common knowledge we will show that these defendants continued to take the initiative in creating a market for human slaves by their insatiable demands.

It will be shown that the Vorstand approved many credits for the precise purpose of housing this slave labor. I should like to point out to the Tribunal that the knowledgeable participation of the defendants in the crime of enslavement and human bondage is the gravamen of the charges supported by the evidence in Court III-A whereas some mistreatment and abuse will be shown there might also be developed that in some instances Farben slaves were comparatively and relatively not too badly treated. In this respect it is the prosecution's theory that good treatment, if developed, does not erase the human bondage and at most, can go only to the mitigation of the crime of enslavement. In addition to the employment of impressed foreigner it will be shown that Farben participated in the deportation of slave labor of such peoples. It will also be shown that Farben participated in the enslavement of concentration

inmates by requesting and using such labor and still further, that Farben employed prisoners-of-war in work relating to war operations.

I should like at this time to advise the Tribunal that every effort has been made to reduce the evidence on this phase of the case to a bare minimum. The number of documents, including affidavits, originally contemplated for use was approximately 300. That number has been reduced to about 180. A determined effort will be made to keep the relative and explanatory portions of the record to the minimum. For the most part the remarks on documents will be limited to pertinent extracts or a brief digest. I think it would be helpful for the Tribunal to know the manner in which the evidence is to be presented.

The presentation will be divided into six major groups which are identified both in the index and context by Roman Numerals I through VI. These classifications are:

- I. Findings of IMT.
- II. Initiation and Operation of Slave Labor Program.
Under this will come:
 - A. Foreign Laborers and Prisoners of War.
 - B. Concentration Camp Inmates.
- III. Criminal Nature of Program.

I might say in regard to this, in as much as it is charged in the indictment that page 92, that the acts, conduct of the plants and enterprises charged to the defendants were carried out as part of the slave labor program of the Third Reich. It is felt that it is not only proper but essential to give the court an insight into the historical facts and operations of this program. This will be kept to the minimum, however.

- IV. Employer's Role.
- V. Farben's Involvement in the Slave Labor Program Generally and
- VI. Farben's Involvement in the Slave Labor Program as shown at Certain Individual Plants and Combines.

Now, turn to Document I, contained in Book 67. This is Document

No. NO-1179. It is found at page 1 of the English and 1 of the German and we ask the Court to take judicial notice of this quotation. It's an excerpt from the findings of the IMT. It's found at pages 243 through 247, Vol. I of the Trial of the Major War Criminals.

This has been included by virtue of its considered importance and it states:

"The salient features of Slave Labor Program of the Third Reich such as: conscription being the rule rather than the exception; the drastic and violent methods incident to accomplishment of conscription; the brutal and degrading treatment in many cases of conscripted laborers in Germany. The general policy underlying mobilization of slave labor is stated as the complete and conscientious use of raw materials, as well as the fertility of conquered territories and their human labor power to the profit of Germany and her allies."

We now come to the division of the classification of the evidence: "Initiation and Operation of Slave Labor Program" .

THE PRESIDENT: You will pardon me, counsel. I wonder if you wish to assign a number to the finding of the IMT since you have given the document a number?

MR. VAN STREET: Your Honor, I am sorry. I was of the opinion when the Court was asked to take judicial notice a number was not assigned.

THE PRESIDENT: That's true. We have frequently a judgment of the IMT called to our attention as a matter of judicial notice. However, I notice you gave it a document number and you will no doubt confuse yourself later as to what became of that document if you don't give it an exhibit number.

MR. VAN STREET: Very well. I ask that it be marked as Exhibit 1286.

THE PRESIDENT: Thank you.

MR. VAN STREET: The next document is EC-489 which has already been marked in evidence as Exhibit 473 in Book 22. This is found at page 9 of the English and 8 of the German. This is a letter from Kirschner of

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Krauch's G.B. Chemic Office to General Thomas, Chief of the Office of Military Economy and Armament in the High Command of the Wehrmacht. In the letter Krauch's special thanks are expressed to Bruex. The letter tells of Krauch's idea concerning employment of Russian prisoners-or-war in the armament industry. I would like to add, there's a short note of Krauch's ideas referred to in the letter which has not been found by the Prosecution.

The next document, EC 194, which may be marked as Prosecution's Exhibit 1287. This is found at page 10 of the English and 9 of the German. This is a memorandum of Keitel, Chief of High Command of the Armed Forces, dated 31 October 1941, eleven days subsequent to the letter previously put into evidence. This letter concerns the use of Russian prisoners of war in the war industry. The memorandum points out that, because lack of workers is becoming an increasingly dangerous hindrance for future German war and armament industry, the Fuehrer has not ordered that even the working power of Russian prisoners of war should be utilized to a large extent for the requirements of the war industry.

The next document, 1183-PS. It is requested that this be marked in evidence as Exhibit 1288. This is a copy. ... It's found at page 12 of the English and 12 of the German. This is a copy of a letter, 29 January 1942, from the Labor allocation Department of the Commissioner of the Four-Year Plan, that's Goering's office. The letter concerns increased mobilization of manpower from the occupied territories and preparations for the mobilization by force. It shows as addressees the pertinent Reich offices in the occupied countries of Poland, Norway, Holland, France, Belgium, etc. The letter states that forcible mobilization of workers from occupied territories cannot be disregarded, in case voluntary recruiting is unsuccessful, and the mere possibility of mobilization by force will, in many instances, make recruiting easier.

This document is purposed to show the broad scope of the plan and the many agencies to which the precise details of the plan were called attention to in order to execute the provisions thereof. The letter is signed Mansfeld, who was Ministerial Director of the Reich Labor Ministry.

The next document is NI 1435 which I ask to be marked in evidence as Exhibit 1289. This is found at page 16 of the English and 16 of the German. This is a letter, or a photostatic copy of a letter, dated 21 February 1942, from the Labor Allocation Department of the Commissioner

for the Four Year Plan, Goering's office, to the Reich Minister for Armament and Munitions regarding the utilization of prisoners of war in the armament industry. It is stated that it must be taken into consideration that the chemical industry, among others, belongs to the armament industry in a wider sense and that 15,000 prisoners of war are employed in the chemical industry. Now, in that connection, I respectfully refer the Tribunal's attention to the annex to the Hague Convention of 1907, Chapter II, which is the prisoners of war part of the annex, Article VI which reads as follows:

"The state may utilize the labor of prisoners of war, according to their rank and aptitude, officers excepted. The tasks shall not be excessive and shall have no connection with the operations of the war."

We mention that, Your Honors, at this time in order that it may be brought sharply into focus precisely what our theory is in regard to the legal responsibility for the use of prisoners of war, and we also point out that the Prisoners of War Convention of 1929 and the provisions contained therein do not supersede the provisions of the Hague Convention of 1907, but those provisions, including Article VI, are still in force and effect and must be considered in a finding of guilt or innocence in respect to this case.

THE PRESIDENT: Was Germany a party to that Convention?

MR. VAN STREET: Yes, Your Honor, Germany was.

Your Honor, inasmuch as that question has been posed, I think it would be well to call the Tribunal's attention to an excerpt from the International Military Tribunal which might be helpful. On Page 232 of the trial of the major war criminals, Volume I, it is stated by the Tribunal that:

"The argument in defense of the ill treatment of Russian prisoners of war was not valid and was without foundation on the plea that Russia was not a signatory to that Convention."

I think it goes to the same point which Your Honor raised.

The next document, 1666PS. This is found at page 19 of the English and 18 of the German. I ask that it be marked in evidence as Exhibit 1290. This is Hitler's decree, dated 21 March 1942, appointing Fritz Sauckel Plenipotentiary General for the utilization of labor, the task to be carried out within the framework of the Four Year Plan. And then there's another paper, Ordinance for the execution of this decree, dated 21 March 1942 - 27 March 1942. That should be corrected.

The next document is NI 1098 which we ask be marked in evidence as 1291. This is found at page 20 of the English and 23 of the German.

DR. DIX (Defense Counsel for defendant Schneider): I merely wanted to point out that the affiant Sauckel is no longer alive and that, therefore, he is not able to be cross examined. Therefore, I must object to the use of this affidavit.

THE PRESIDENT: That presents a matter of some novelty so far as this Tribunal is concerned. The President thinks that perhaps we had better go along with the introduction of the other documentary proof and pass this at this time until some convenient time when we can hear your views on it and the Tribunal will have an opportunity to confer. In any event, the Chair would not want to assume the responsibility of speaking for the Tribunal on a matter of that kind. Is it agreeable, gentlemen, to assign that a number, for identification, mark it in your index, as we shall in ours, that the matter has been temporarily passed and we will take it up at the convenience of counsel and discuss it at some later time.

MR. V.N STREET: Very well, Your Honor.

MR. SPRECHER: Mr. President, could I suggest that Tuesday morning would be a convenient time, as far as the prosecution is concerned, to present a short statement concerning what we think precedent and practice is and give any citations in a very short form to Your Honors, and ask also whether or not that is convenient to the defense.

THE PRESIDENT: Would that time suit the convenience of counsel for the defense? Next Tuesday morning at the opening, to hear your views on that matter?

DR. DIX: I merely wanted to remark that in the case of the affidavit Hoess, one of the next documents, the same applies. Then I don't have to make a separate objection.

THE PRESIDENT: Is that the next succeeding document?

MR. VAN STREET: No.

THE PRESIDENT: Very well then. The understanding will be that if counsel for the prosecution will call our attention to the other affidavit, we'll consider them in the same category and hear your views on it briefly at the opening of next Tuesday's session.

MR. VAN STREET: Very well, sir.

THE PRESIDENT: In the meantime, we suggest that there will be no skip of the assignment of numbers in the index and that we have the understanding that these documents will be marked only for the purposes of identification until the Tribunal has reached a decision.

MR. VAN STREET: Very well. In accordance with Your Honor's suggestion, NI 1098 will be marked as 1291, for identification.

THE PRESIDENT: Very well.

MR. VAN STREET: The next document is NI 7569. This has already been put into evidence as Exhibit 477, Book 22. This is page 27 of the English and 36 of the German. This is a letter, 13 January 1944, from Krauch to Kehrl in the Reich Ministry for Munitions and War Production. Krauch states that efforts of his office, that is, G.B. Chemie, in such matters as procurement of foreign labor and employment of certain classes of manpower (Prisoners of war, inmates of concentration camps, etc.), have had an effect upon the speed of the enlargement of chemical production which must not be under-estimated and that the initiative displayed by his staff in the procurement of labor is considered a virtue which has proved its worth in the past and must not be repressed in the future. The letter is signed "Heil Hitler. Krauch."

The next classification relates to concentration camp inmates and the first document is NI 382 and it is asked that this be marked in evidence

is Exhibit 1291.

THE PRESIDENT: I'm sorry, counsel, that would be 1292.

MR. VAN STREET: 1292. Thank you, Your Honor.

This is an affidavit of 5 August 1946 of Oswald Pohl and I will withhold any further comment on this as it is presumed that he will be called as witness.

NI 4434. It is asked that this be marked in evidence as Prosecution's Exhibit 1293. Now, this is..... It is better, Your Honor, I suppose, to mark this for identification only.

THE PRESIDENT: Is it the other.....

MR. VAN STREET: This is the other one which counsel, I believe, referred to.

THE PRESIDENT: Then our understanding will be that the two documents marked 1291 and 1293 will be considered as identified only and we will hear you on those matters next Tuesday morning.

MR. VAN STREET: Your Honor, there's another matter I would like to point out in respect to this particular document. It is indicated at the top of the paper that it's an affidavit but, actually, it is not. It is simply a statement and this statement was taken in Poland by Mr. John Fried who was formerly an attorney in Vienna. Now, the reason Hoess was not put under oath, as I understand it, at that time was because he was under indictment and, in accordance with the continental practice, it is not customary to put a person under indictment under oath. However, the statement was taken as the truth and it was affirmed by Hoess and, as a matter of fact, an affidavit of John Fried has been distributed. It isn't noted in the index book, but it has been distributed and is identified as NI 4434a and should be taken in consideration with this 4434. However, according to the evidentiary rules under which this court is operated, contained in Ordinance #7, I believe that if the court ultimately rules that the affidavit or statement, written by the dead affiant, is admissible, this should be made admissible on the basis of an affirmative, of course, for

what it is worth, what probative value might be given it.

DR. SEIDL (Defense Counsel for defendant Duerrfeld): I object to the admission of this document, the Document NI 4434, even for the purposes of identification. The statement of the 12th of March 1947, which was signed by Rudolf Hoess, according to the prosecutor himself, it is not an affidavit. That can be seen from the document.

THE PRESIDENT: Counsel, I think we may save your time by saying that your objection to the identification of the document is now overruled. If you have views with reference to its admissibility, because it is not verified, it is not really an affidavit, we shall be glad to hear you on next Tuesday morning at the time the other question concerning the affidavit and the death of the makers of the statement is considered by the Tribunal. Counsel for the prosecution will take notice to be prepared with its views at the same time as to that phase of the question.

MR. VAN STREET: We ask therefore that NI 4434 be marked, for identification, as 1293 and also that NI 4434A be marked, for identification, as 1294.

The next document is R-129 which is found at page 40 of the English and 53 of the German. It is asked that this be marked as Prosecution's Exhibit 1245. This is a letter and enclosure, both dated 20 April 1942, from Pohl to Himmler concerning concentration camps. In the letter, Pohl lists the old and new concentration camps, stressing the mobilization of all prisoners who are fit for work, for purposes of war, and for purposes of construction in the forthcoming peace. In the enclosure entitled "Order", the camp commanders and work managers are told that the employment of prisoners must be, in the true meaning of the word, exhaustive in order to obtain the greatest measure of performance.

Very well, I'll go back.

In the enclosure, entitled "Order", the camp commanders and work managers are told that the employment of prisoners of war or prisoners must be, in the true meaning of the word, exhaustive in order to obtain the greatest performance and that there is no limit to working hours.

The next document.....

THE PRESIDENT: Just a moment. I'll call the attention of the prosecution to the fact that the copy of the affidavit NI 4434A, which has been marked for identification 1294, the copy furnished my associate on the right, is in German.

MR. VAN STREET: Very well, that will be corrected. Thank you, Your Honor.

The next document is 654 PS, found at page 44 of the English and 59 of the German. It is asked that this be marked as Prosecution Exhibit 1296. This is Thierack's notes, 18 September 1942, on a discussion with Himmler concerning the delivery of anti-social elements from the execution of their sentences to Himmler to be worked to death. This included Jews, Gypsies, Russians and Ukrainians, etc. Thierack was formerly the German Minister of Justice.

I would like to point out, for the benefit of defense counsel, when you analyze your copy of the document you will perhaps find that it is unsigned. However, if you will inspect the original, you will find that it is signed by the initials TH.

The next document is NI 638, found at page 47 of the English, 62 of the German. It is asked that this be marked as Prosecution's Exhibit 1297. This is an express letter, 9 October 1944, from the Reich Minister for Armaments and War Production on procedure for requesting and allocating concentration camp inmates. It concerns the voiding of all applications on file, the forms upon which new applications must be filed, the sending of an SS representative to the applicant's place to examine conditions with a view to separate employment and escape-proof housing. This document is purposed, Your Honors, to show the red tape incident to the procurement of concentration camp labor.

We come next to the third division of the presentation, the criminal nature of the program. The first document is NI 4310 which we ask be marked as Exhibit 1298. This is found at page 49 of the English and 64 of the German. This is a decree introducing compulsory labor in Poland, 26 October 1939. All Poles between the ages of 18 and 60 are subject to public labor commitment, and for Jews a special decree will be issued. This is signed by Frank, Governor General for Occupied Poland. I might add, Your Honor, that this particular decree is not, from what I can determine, marked secret but is found in the regular legal Gazette.

The next document is 2233 PS and it is asked that it be marked as Prosecution's Exhibit 1299. This is found at page 50 of the English and 65 of the German. This is an excerpt from Frank's diary, 10 May 1940. At page 23, Frank states that on the demands from the Reich it has now been decreed that compulsion may now be exercised because sufficient manpower was not voluntarily available for service inside the German Reich. This compulsion means the possibility of the arrest of male and female Poles. The arrest of young Poles, when leaving church and cinema, would bring about increasing nervousness. The best method would be the

organization of a raid.

The next document is 3040 PS which may be marked as Prosecution's Exhibit 1300. It's found at page 51 of the English, 68 of the German. This is a circular decree, 20 February 1942, of Reichsfuehrer SS Himmler on the commitment of manpower from the East. This decree deals with the guarding of Eastern workers, the supervision of the plant guards where Easterners work by the state police administration, etc. In severe disciplinary cases, the state police office has to act with its means. Severe cases will be treated, as a rule, only with strict measures. That is, with transfer to a concentration camp or with special treatment. Special treatment is hanging. In respect to the index, Your Honors, it is requested that you strike the four lines beginning with the bottom.

Reference is also made, with respect to this document, to page 54 of the English and 76 of the German, entitled "Sexual Intercourse."

"Sexual intercourse is forbidden to the manpower of the original Soviet Russian territory. By means of their closely confined quarters, they have no opportunity for it. Should sexual intercourse be exercised, nevertheless, especially among the individually employed manpower on the farms, the following is directed:"

"1. For every case of sexual intercourse with German countrymen or women, special treatment is to be requested for male manpower from the original Soviet Russian territory; transfer to a concentration camp for female manpower."

The next paragraph also I ask to be noted, but I will not read it into the record.

The next document is 3044-PS, which may be marked as Prosecution Exhibit 1301. This is found at page 58 of the English and 82 of the German. This is Regulation No. 4, dated 7 May 1942 of the Plenipotentiary General for the Mobilization of Labor, on recruiting of foreign workers. "It states that the recruiting of foreign labor will be done on the fundamental basis of volunteering. Here, however, in the occupied territories the appeal for volunteers does not suffice, obligatory service and drafting must, under all circumstances, be resorted to. This is an indisputable requirement of our labor situation."

The next document is 084PA, which may be marked as Exhibit 1302. This document starts on page 67 of the English and 102 of the German. Reference is made to page 67 of the English and 104 of the German, wherein the report states--I might say that this is a report of 30 September 1942 regarding the present state of the question of Eastern workers, signed by Dr. Gutkelch, G-u-t-k-e-l-c-h. The report states that the "drafting, housing, treatment, etc., of Eastern laborers has so far been taken care of exclusively according to Technical and Security Police points of view, with the result that the numerical

fulfilment of program and the security of the German people and of businesses could be reported. Instead, there should also have been taken into consideration that drafting of Eastern laborers would be of importance in development of political opinions among the Eastern nationals toward Germany which would aid measures to accomplish recruitment."

And on page 68 of the English and 106 and 107 of the German, it is reported: "The treatment, of Eastern workers, "by the guards was on the average....cruel and without intelligence... Food and care was so bad and insufficient in the camps for Eastern laborers being employed in industry and in the mines that the average capacity of the camp members dropped down shortly, and many sicknesses and deaths took place."

"Letters which reached Russia in spite of initial blockade as well as the stories of fugitives, and also the clumsy publications in the German press of the legal rulings relative to the treatment of workers gave the Soviet propaganda enough to manipulate with."

Emphasis, if Your Honors please, on "the clumsy publications in the German press," found at page 69 of the English and 108 of the German.

The next document is 054-PS, which may be marked as Prosecution Exhibit 1303. This is found at page 79 of the English and 134 of the German. This is an Inter-office report of 7 October 1942, "to Rosenberg, Reich Minister for occupied territories, concerning treatment of Ukrainian slave labor." On page 80 of the English and 136 of the German. The "Report states that men and women are taken out of their beds at night and locked in cellars until their deportation to Germany." On page 82 of the English and 141 of the German, it states that on their way "to Germany they are locked in railway cars for many hours without possibility to relieve themselves and without water.

On arrival in Germany, they are called 'Russian pigs' and the women are being subjected forcibly to indignities..." If Your Honors

please, I ask that the Index to 054-PS be stricken in respect to the last three lines. That actually should have read, instead of "immoral treatment by German men"—"subjected forcibly to indignities by German men." The report goes on that..."the inhuman treatment of sick and incapacitated slaves sent back from Germany to their homeland is complained of in that thoroughly sick people are being herded into one railway car for days without food or any kind of medical attention. Deaths occurred and the corpses are dumped off without any provision for burial."

That is on page 81 of the English and 138 of the German.

The next document is 016-PS, which may be marked as Exhibit 1304. This is found at page 86 of the English and 145 of the German. This is a letter of 21 December, 1942, with inclosure from Rosenberg to Sauckel, re: "Labor in the East. In his letter, Rosenberg discusses the effect on the war in the East of the recruiting methods and treatment of Russian workers." On page 86 of the English and 146 of the German, it is stated that: "Such measures are sharpening Russian resistance through the formation of guerilla bands. Rosenberg mentions that tens of thousands of useless Russian workers (sick, cripples, etc.) are returned to Russia. The enclosure is a German censorship report made up of extracts from selected letters from the occupied regions."

On page 89 of the English and 150 of the German, it states that: "These extracts recount the burning of houses and villages of Russians who do not want to go to work in Germany, and the catching of humans by the recruiters like the dogcatcher catches dogs."

The next document is 1526-PS, which may be marked in evidence as Exhibit 1305. This is found at page 90 of the English and 193 of the German. This is a copy of a memorandum and order of March 1943, from SS Major Christians on "to all group leaders of Security Service. It is stated that the measures of the Security Police have to be subordinated to the greatest extent to the recruiting of labor for Germany. In the shortest possible time the Ukraine has to put at the disposal of the

armament industry one million workers; five hundred have to be sent daily from Christianson's territory."

"We would like to point out for the benefit of Defense counsel that there is a surplusage on this document in your books, and you may disregard pages 193 to 200 in your books; and also 205 to 209-- which means that the relevant portion of the document contained in your book should be pages 201 to 204, inclusive.

THE PRESIDENT: Counsel, if you will pardon me, you summarized the wrong document; we had caught it. All you need to do is to mark 3012-PS as Document 1306, and then summarize the preceding document, and you will have the record straight.

J.F. VAN STEEN: The next document, Your Honors, is 3012-PS which may be marked in evidence as 1306, and then the summary on the preceding document, which is 1526-PS is as follows. That is at page 90 of the English--

INTER-EXETER: Please repeat the document number and the exhibit number.

J.F. VAN STEEN: One-five-two-six-PS, Exhibit No. 1305, found at page 90 of the English and 152 of the German. This is a report of 25 February 1943: "...of the Chairman of Ukrainian Main Committee, to Frank." It might be mentioned that "This report is written by a Ukrainian collaborator who tells about the mass shootings of innocent people without trial, manhunts for forced labor, and ill-treatment of Ukrainians."

The next document, NI-449, which may be marked in evidence as 1307. This is found at page 106 of the English and 210 of the German. This is an operational directive "31 August 1943, signed Sauckel, stating that the labor assignment staffs in the 4th Operation France must mobilize, by 31 December 1943, 500,000 workers for assignment to armament plants of the Reich, and 1,000,000 workers for the execution of German tasks in France."

The next document is R-124 which may be marked as Exhibit 1308.

This is found at page 113 of the English and 220 of the German. This is an extract from minutes: "1 March 1944, of the 54th Conference of the Central Planning Board," regarding the labor supply. "Sauckel states, in respect to recruiting French workers, that he employed and trained a whole batch of male and female agents who, for good pay, just as was done in olden times, for 'Shanghaiing' went hunting for men and made them drunk by using liquor as well as words, in order to dispatch them to Germany."

The next classification of the presentation is the employers' role--

THE PRESIDENT: Just a moment, counsel. Did you intend to omit the document next in the Index?

MR. VAN STREET: Yes, Your Honor. A-103 will be omitted at the present time.

THE PRESIDENT: Very well.

MR. VAN STREET: The next document is 1861PS, which is already in evidence as Exhibit 393, Book 15, found at page 134 of the English and 261 of the German. This is the Reich law regulating "National labor, of January 1934. This law sets forth the relationship of the enterpriser and the employees. Part 1 of paragraph 3 states in the case of legal persons and personal groups, legal representatives will be the leaders of the enterprises. Part 2 of paragraph 3 states that in case of legal persons or personal groups the legal representatives can appoint a person who participates in the management of the enterprise in a responsible capacity as their deputy. In matters of lesser importance they can also appoint another person."

The next document is 1861-PS-A, which may be marked in evidence as Prosecution Exhibit 1310--1309. Correction on that; instead of Exhibit 1310, it should be Exhibit 1309. If Your Honors please, this represents excerpts from the law and commentaries on the "Law Concerning the Regulation of National Labor." Now, in this document is included for the Commentaries of the authors. These commentaries state "as a matter of principle, the entrepreneur is the plant leader where he performs the duties of a manager in the plant. If he only manages the enterprise and is not active in the plant he does not belong to the plant community. In this case he must appoint a deputy as plant leader. Since the entrepreneur is the natural plant leader, he is always the potential plant leader and can at any time transform his potential leadership into actual leadership by taking over the management of the plant. Now I should like to emphasize this last sentence: "Even the entrepreneur who is not a member of the plant community is responsible for the welfare of the workers."

The next document is NI-7015, which is already in evidence as Exhibit 359, in Book 13. This is found at page 145 of the English and 272 of the German. This is an affidavit of 7 May 1947 of Dr. Werner Mansfeld. Among other things, the affiant states that "an employer in the sense of the law for the regulation of labor or as the person or group of persons who determines the economic aim of the business and supplies the technical means necessary for the achievement of that aim. The employer in multiple firm enterprises is therefore always the highest authority which ultimately--in whatever form it may act--determines the fate of the industry."

The next document is NI-5670, which may be marked in evidence as 1310. This is found at page 150 of the English and 277 of the German. This is an affidavit dated 21 March 1947 of Dr. Walter Stothfang, S-t-o-t-h-f-a-n-g, former Ministerialrat in the Reich Ministry for Labor. Affiant states that usual procedure in obtaining workers was for an enterprise to request the required number of workers. If foreign workers

or prisoners of war were requested, their nationality had to be stated by the enterprise. The enterprise also had to state that the necessary accommodations were available and that the necessary food supply was assured. Representatives of the entrepreneur often visited the transit camps from which foreign labor was allocated in order to meet the transports. The transports in any event were met at the end of the destination by representatives by both the entrepreneur and the Labor Office."

The next document is NI-1336, which is now in evidence as Exhibit 476, Book 22. This is found at page 153 of the English and 282 of the German. This is a circular letter of 9 August 1943 of the Plenipotentiary for Special Tasks of Chemical Production; that is the defendant Krauch's office; and it is addressed to all plant construction or building offices, and it regards the measures to bring back French workers who had escaped and who had been individually recruited in the first place. The letter provides that plants should report escapes immediately; individual reports should be made for each worker. Copies of report must be sent to Department of Labor Allocation of above-mentioned Plenipotentiary -- that is Krauch -- and to the Plenipotentiary for the territory.

The next document is NI-839, which may be marked in evidence as 1311. This is found at page 157 of the English and 285 of the German. This is a memorandum of 12 May 1944, from the Counter-Intelligence Office, I.G. Berlin, N.W. 7, signed Ruediger, to Ilgner. The reference is made to Decree No. 13 of 1 November 1943, for the safeguarding of order in plants. "The instant decree applies to Germans only, whereas concerning foreigners, hitherto existing regulations remain in force."

It is respectfully requested, Your Honors, that you correct your Index, on NI-839, the first two sentences, to read: "Memorandum, 12 May '44, from Counter-Intelligence Office, I.G." instead of "Plenipotentiary for Counter-Intelligence."

This document, may it please the Court, has the purpose of showing knowledge on the part of the defendant Ilgner as to what was going on as to employment. I might say not only the employment of foreigners but as

to what was going on in respect to the rights of the plant managers with respect to disciplinary measures at their disposal.

May it please Your Honors, Document No. NI-10392 will be omitted.

And that concludes, if Your Honors please, Book 67. If Your Honors please, we will now proceed with the introduction of the evidence contained in Document Book 68.

The first document is NI-6099, which may be marked in evidence as Exhibit 1312. This document is the minutes of the Farben Aufsichtsrat, No. 58, dated 11 July 1941. Schmitz, in his Vorstand report to the Aufsichtsrat, says in this document that "the works must direct their efforts to obtaining the required manpower through foreign workers and prisoners of war; the requirements could in general be covered."

That, if Your Honors please, can be found at page 3 of the English and also page 3 of the German, in the fourth paragraph from the top.

(Mr. Van street)

We would also like to point out that it is indicated that the defendant von Knieriem was present at this meeting. That is indicated on page 2 of the English, under Point I of the Agenda. The significance of this document, in the minds of the Prosecution, is that this occurred 8 months before wild recruiting was attributed to Farben via Sauckel.

The next document is NI 1600, which may be marked in evidence as Exhibit 1313. It is found at page 7 of the English and 8 of the German. This also is the minutes of the Farben Aufsichtsrat, No. 60, dated 30 May 1942, and Schmitz states here:

"Shortages of workers, particularly the skilled workers, had to be made up for by working long hours, the employment of women, foreigners and prisoners of war."

The next document is NI 3716, which we ask be marked in evidence.

DR. GIERLICH (Counsel for Gemeinrat Schmitz):

Your Honors, the introduction of Document NI 6099 and NI 1600 which have exhibit numbers 1312 and 1313, makes it necessary for me to make a correction, since it is an affair which is considered important by the Prosecution in its opening statement of 27 August 1947, when General Taylor quoted from the two documents, one sentence each. They are the sentences which are mentioned in the index as well, and which the Prosecution has repeatedly referred to. It is the records of the statements which my client made in the Vorstand, in the Aufsichtsrat, -- not the Vorstand, but in the Aufsichtsrat -- and these statements were made under the title, "Report of the Vorstand about the Business Year". Quotations from General Taylor do not show that these statements refer to facts that already lie in the past, but, on the contrary, General Taylor designates these statements of my client as an "order," that is, a directive for the future. Apart from the fact that such an authority was not given to my client, the text of the entire document shows that in this connection there can be no question of such an order or directive.

Furthermore, in the case of the second quotation, as well as in the opening statement of General Taylor, and in Document Book 68, there is a mistake in translation which is important.

The German word, "verlaengerte Arbeitszeit" means an increase of working time, but this is stated in the English text as "working long hours", when it should really be, "by extension of working time."

THE PRESIDENT: Now the Tribunal has already declared its position with reference to opening statements, and these descriptions of documents that are contained in the index to the Prosecution's books. These matters are not evidence and will not be so considered. However, we do deem it proper, especially with reference to the matters of the index, for counsel for the Defense to point out errors or inaccuracies that might otherwise mislead the Tribunal in the consideration of the case.

Counsel for the Defense, who has just addressed the Tribunal has now in the record, a statement of his objections with reference to the index description, and also his comments on the opening statement of General Taylor. That takes care of itself.

As to this matter of translation, we shall have to ask counsel for the Prosecution what he has to say.

MR. VANSTREET: May it please Your Honors, I think that there are two things which must be considered in connection with the objection which has been made on NI 6099 and NI 1600. First, of course, we must consider whether or not the translation is accurate. Secondly, we must necessarily consider the position occupied by the defendant who uttered these words.

Now, coming to NI 6099, the translation as I see it states -- and there has been no objection to it -- that the works must direct their efforts to obtaining the required manpower. Now, how anything could be more in line of an order, I don't know. In other words, Your Honor, I respectfully submit that you do not have to have a

paper entitled, "order" in order for it to be tantamount to an order.

THE PRESIDENT: Well, the view of the Tribunal is simply this. When the document is in evidence for all purposes, it speaks for itself. The only problem that we have before us is the fact that this is, in the original a German document, and we have only a translation, and we will naturally judge the contents of the document by the English translation, which is our language.

Now, if you can reconcile your differences with the counsel for the defendant, Schmitz, as to the proper translation, we should be glad to have it so entered on the record. If not, we may have to take another recourse to find out what the basis of the controversy may be.

In respect to the translation of the German, it is respectfully requested that we hear from Mr. Sprecher.

MR. SPRECHER: The word in question is, "verlaengerte Arbeitszeit".

THE PRESIDENT: Where is it in the record?

MR. SPRECHER: Page 9 of the German. At the top of page 8 of the English.

THE PRESIDENT: And what are the words with respect to which counsel for the defendant has made his objection, so we can mark it in our books?

MR. SPRECHER: The words literally are, "increased working time".

THE PRESIDENT: Now gentlemen, there is no use of any controversy between counsel with respect to that matter. You can or you cannot agree on that translation. If you do we will have the record show you do; if you cannot, we will have to find out, as best we can, what it is, so we can agree about it.

MR. SPRECHER: The only reason I want to make this reconciliation, it is clearly equivalent, and if not, we should take it up outside of the courtroom.

THE PRESIDENT: The matter is over. The record may show that the Prosecution accedes to the translation suggested by counsel for the Defense.

Proceed with your documents. Had you finished with document 1313, with your comments about it, otherwise than as to this objection?

MR. VAN STREET: Yes, Your Honor, I had.

THE PRESIDENT: Then this would be an appropriate time for us to take our afternoon recess.

THE MARSHAL: Tribunal VI will be in recess for 15 minutes.

(Court in recess until 1515)

THE MARSHAL: The Tribunal is again in session.

MR. VAN STREET: Before the recess I think we were about to introduce NI-3761, which may be marked in evidence as 1314. This is found at page 11 of the English and 13 of the German. Your Honors, this document is considered a very significant and revealing one. I understand that a correct translation for the title, that is, "Belegschaftsbewegung", is "personnel trend", and this chart is dated 1 October 1944. This is a TEA chart and was prepared under the supervision of Dr. Struss, the director of the TEA bureau. The chart gives the employment figures of Farben for designated periods, extending from 1 July 1929 to 1 October 1944. Your Honors, the dates can be found at the bottom of each one of the vertical columns, and the figures in the vertical columns stand for thousands of workers. I might add that there is a glossary of the terms used and that glossary is contained in the Document Book. Your Honors, defense counsel has put forth the problem which is faced by them, that they can't very well understand the full significance of the chart inasmuch as they do not have it in color. Now, as a matter of fact that was anticipated, and I want to invite any defense counsel who might desire to, to come to my office, 315, and I have an extra copy there and would be glad to go over it with you or, in the absence of that, I shall be glad to turn over for the scrutiny of the defense counsel that one copy which is in color.

THE PRESIDENT: Proceed.

MR. VAN STREET: I will be very glad to turn it over to you. Your Honor, let us look at this chart, NI-3761, for just a minute or two. The first vertical column on the left is for 1 June 1929. Then the second column, bearing the date 1 January 1933, is considered somewhat significant. It's submitted because in that year the Farben concern already had 50,000 employees, and it's submitted, not particularly urged upon the Tribunal, that possibly the adversity of the business conditions which the firm found itself in at that time might be a motive for the firm's support of Hitler and his program.

Then we come on up to the vertical column, under which appears the year 1941. We will note that at this time there begins to appear a difference or a breakdown, a different clarification of workers. For example, we have a small classification which is designated by the red of "prisoners-of-war." That is the second small classification from the top of that column. Then, under that, is a classification which relates to foreigners, "Auslanders." Then underneath that we have the Deutsch or German workers, divided into women and men. We go on through the years 1941 up to the last date, which is 1 October 1944, and we see there is an increasing use of prisoners-of-war. I might point out that beginning with 1942 there appears another classification, which is made up of so-called "loan workers, foreign loan workers, convicts from the Armed Forces" and, most important, "inmates of concentration camps." We propose to introduce a statement a little later on which testifies to the fact that the concentration camp inmates constitute the majority of this particular grouped classification of workers.

DR. KRAUSS: Dr. Krauss for the defendants Lautenschlaeger and Jaehne. Mr. President, I object to the submission of Document NI-3761, and I will ask you not to admit this document, my reason being, at one column here called "loan workers, foreign loan workers,

forced labor and Armed Forces convicts and concentration camp inmates." The Prosecution just stated that the significance of this group consists in the use of concentration camp inmates and that they made up the bulk of this group. This chart is misleading. The Prosecution places too much value on the use of concentration camp inmates, and for this reason we should have expected the groups to have been split up, broken-down, so to speak, and in its present form the chart is misleading. The same is true for a later document, NI-3762. Here too, the same group is compiled, and the concentration camp inmates are not split up. For instance, in this second document, NI-3762, the impression arises that the bulk of the

plant had used concentration camp inmates, which Mr. President, is certainly not correct. I object to the submission of these charts most decisively and request you not to admit them in evidence.

THE PRESIDENT: The identified as No. 1314, otherwise known as NI-3761, shows on its face that it is a compilation of an individual who presumably is an expert or --

MR. VAN STREET: Mr. President, I feel that possibly I have been somewhat remiss in not properly identifying this document in regard to its background. The original of this particular document is in the Farben Control Office in Frankfurt, and this is simply a duplicate of that particular document. Now, we are very sorry that the original document was not broken down in respect to this grouped classification, but the fact remains that it was not. I would also like to mention that defense counsel just indicated that we are emphasizing the use of concentration camp inmates. I would like to say very sincerely that we are not particularly emphasizing the use of drafted slave labor as against any other. We are simply just putting these in evidence and as we have found it. Now, this is simply a duplicate or a copy of the TEA charts, the original of which can be found at the Frankfurt Control Office, and it's been authenticated by Dr. Struss, who was the director of the TEA Bureau.

THE PRESIDENT: The President was in error and thought this was a chart made by Dr. Struss rather than one identified by him.

MR. VAN STREET: Your Honor, I feel that was my fault.

THE PRESIDENT: Be that as it may, this objection cannot be sustained. This chart is not conclusive. The defendants are not bound by it beyond what the facts may ultimately show. When they get into that, Defense, you will have a full and complete opportunity to disprove the chart in toto or in part or to point out the things which counsel has said are calculated to be misleading. The objection is overruled, and the Defense will be afforded a timely opportunity to make its showing as to what the chart should be. You may proceed.

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JUDGE MORRIS: May I make a brief further inquiry? I am not sure I am correct now about this chart. Is this a captured document of Farben's or is it something Dr. Struss compiled from Farben's files?

MR. VAN STRETT: This, Your Honor, could well come under the category of a captured document. It's under the control and domination now of the Military authorities. Its present location happens to be in the Farben Control Office in Frankfurt. This is a copy of the chart which is an original TEA chart, which was a record, a comparative record, as to this phase of Farben's operations. I might add further that the evidence will show that this chart and similar charts were put before the TEA in the form of being hung on the wall.

JUDGE MORRIS: Thank you very much. That clears the matter very much.

DR. GIERLICH: Mr. President, may I just put a question for the benefit of clarification? It may be that the difficulties are based on the fact that we don't have a document here in color and had no opportunity to look through the material because we only received the document books during the noon recess. The fact remains unreservedly, the note attached to it says "Frankfort-am-Main, 20 January 1947", because we think then this would not be a captured document.

DR. RASPATT (For Krauch): Mr. President I think it's altogether clear it isn't a captured document. The Dr. Struss note, and I quote:

"I, Dr. Struss, confirm that the lists appended here, dated Frankfurt, have been compiled by me from I.G. Farben's files."

From this declaration it resolves that it isn't a document which was captured but that it was prepared especially for the purposes of evidence.

THE PRESIDENT: We can put this matter at rest in one moment. Mr. Secretary General, let us have the original document and the folder in which it is contained. It's in the record that there is a certificate

to the effect that this is a captured document. Now, we are going to admit the document. If counsel for the defendants wish to challenge that certificate, you may do it within any reasonable time. As we have already indicated to you, as a privilege you may object to the admissibility of a document even after it has been formally accepted. In the meantime, perhaps, if you could see the colored chart which the Prosecution has offered you or confer with Prosecution in regard to this matter, you may be able to obviate the necessity of taking more time before the Tribunal but, if you do not, if you cannot reconcile your difficulty, you may at any reasonable time renew your objection, and, without prejudice to the fact that the document has been admitted, we will hear you and determine the matter on its merits.

DR. DIX: I merely want to observe, regarding this question, that I believe that Dr. Struss only compiled this document after the war, which is shown by the text of the affidavit. This is merely to clarify the question of whether it's a captured document or not.

THE PRESIDENT: Very well. Just understand, please, that this document is in evidence, and if we hear no further objection to it we will consider it for what it might be worth and in the light of the subsequent showing of the Defense, if you conclude that it's improper to admit it in evidence, first, confer with the Prosecution, and if you cannot reconcile your difficulties, if you cannot, then within a reasonable time you can renew your objection and we will consider the matter without prejudice by the fact that it has been admitted in evidence today. No one can be harmed by that ruling, and counsel for the Prosecution may proceed.

MR. VAN STREET: May it please the Court, may I continue?

THE PRESIDENT: Yes, certainly.

MR. VAN STREET: The next document is NI-11411, which may be marked in evidence as 1315. Your Honors, this is an affidavit by Kurt Hauptmann, which simply gives us an extraction, in table form, of the figures shown on the immediately preceding document. Now, this actually is in the form of an affidavit, but, inasmuch as it is simply a mathematical computation, it could have been simply a computation.

THE PRESIDENT: Since it is based on the preceding document, the same objection will stand with respect to it, and counsel for the Defense will be governed accordingly. It will be admitted in evidence, subject to being stricken if subsequently there is a showing that that should be done.

MR. VAN STREET: The next document, if your Honors please, is NI-3762, which may be marked in evidence as 1316.

THE PRESIDENT: The same ruling will relate to that document, but the Prosecution may summarize or explain the document considered in evidence subject to subsequent objections.

MR. VAN STREET: This document is found on page 15 of the English and 16 of the German. This is an Arbeiter or Worker's chart dated 1 October 1944. This chart, too, is a reproduction of a TEA chart and was prepared under the supervision of Struss. The chart gives the employment figures for each of the principal Farben plants or combines as of 1 October 1944. Now, to distinguish this from the chart just discussed, the figures shown in the vertical column of this chart, that is to say, 3762, are percentages, whereas the number of workers or numbers of workers employed are shown at the very bottom of the chart. That's 3762.

DR. DIX: I beg your pardon. Dix for Schneider. I just noticed that in the files of the Secretary General -- after all --

THE PRESIDENT: The Prosecution may continue.

MR. VAN STREET: If Your Honors please, it would be noted that this chart deals with the employment figures of the principal work combines of Farben. It's to be noted that prisoners-of-war were employed in each one of the combines or plants, if you please. It's to be noted that the grouped category which recently gave rise to some discussion -- that is to say, the workers on loan, the foreign workers on loan, and the convicts from the Armed Forces and the inmates from concentration camps -- were employed in all plants through the Schkopau, Huel, and Heydegreck. It's to be further noted that foreign workers were employed in all of the plants and combines indicated on the chart.

We would like for Your Honors to note that at approximately the figure 45, or where 45 would be, between the percentages 40 and 50, is given the entire number of Germans employed by I. G. and going up to the top line, that is, the upper one of the two, it will be noted that men and women, and then going across to the left, to the percentage, would constitute approximate 52 to 53%. That is to say, this chart would indicate that as of this time Farben's total employed force was made up of approximately 52 to 53% German workers and the remainder made up of the categories set forth on the chart.

The next document is NI 11412, which may be marked as Exhibit 1317, and this too is simply an extract of the figures shown in the chart immediately preceding. It is found at page 18 of the English and 17 of the German.

Now, Your Honors, we come to a document, NI 4999, which may be marked in evidence as Exhibit 1318. This is found at page 22 of the English and 20 of the German and I think will perhaps clarify some of the alleged confusion which has apparently existed in reference to the two principal documents just introduced and which might have been obviated had we waited for the introduction of this document. This is an affidavit of Ernst Struss, dated 27 March 1947, where Dr. Struss gives an explanation of the two aforementioned charts, that is to say, NI 3761 and NI 3762. I refer the Tribunal to page 22 of the English, which I believe will be on page 20 of the German. In the second paragraph, Dr. Struss says:

"In this capacity..."

(that is, his capacity as Director of the TEA)

"...and under my supervision I had graphs drawn up, such as the graph dated 1 October 1944, which shows the development as to the number of workers employed and which, beginning with the year 1929 and ending with 1 October 1944, indicates the number of workers employed by the 10 main plants of I. G. Farben-Industrie."

Then coming down:

"The graph mentioned, dated 1 October 1944, shows - beginning with the year 1941 - the number and various categories of workers, that is, prisoners of war and foreigners, and comprised in one category are workers on loan, foreign workers on loan, prisoners taken by Armed Forces, forced laborers, and inmates of concentration camps. Likewise, under my supervision graphs were made similar to the workers' graph, dated 1 October 1944, which shows a breakdown percentage of the various workers' categories who were working in each of the above-mentioned main plants of the I. G. These categories consist of foreigners (who were further subdivided into male and female), prisoners of war, and - comprised in one category - workers on loan, foreign workers on loan, convicts of the Armed Forces, and inmates of concentration camps. I can say that most of the workers of the last-mentioned category were concentration camp inmates."

Then Dr. Struss goes on to state how these figures flowed to him. That is, from the plant level, up through Bertram's office, who is the Bertram who was the statistical aide of defendant Schneider. Coming down to the end of that page 1:

"The above-mentioned graphs were submitted to TEA and, as a matter of fact, these graphs were to be seen at every meeting of TEA. Such graphs showing the number of workers were important for TEA, because TEA computed the distribution of the credits for the new constructions of the various plants on the basis of the number of workers. In other words, TEA used graphs to draw conclusions as to what the individual plants could construct."

And then he goes on to say that a plant like Leuna would use 75 million and that Auschwitz received 12 million per month. Dr. Struss further says:

"In any case, I myself gave Hermann Schmitz a copy of the graphs which were placed before TEA. Plant managers such as Gajewski for Wolfen and Ambros for Auschwitz based reports on their strength in terms of workers, and I recollect that in various instances Ambros,

as well as Gajewski, stressed the fact that it is difficult, or almost impossible, for them to finish the desired production or new structures with such a small percentage of German workers.

"The Vorstand met in each case on the day following the TEA meeting. In the Vorstand meeting ter Meer reported on the matters dealt with by TEA, for the purpose of obtaining the approval of the Vorstand."

The last line in that paragraph 3:

"In this way the Vorstand had the advantage of being informed on everything that was discussed by TEA."

And the first lines of Paragraph 4--and I'll close very quickly on this document:

"As far as the use of concentration camp inmates or workers by the I. G. Farben is concerned, I remember that this plan had existed for Auschwitz from the very beginning."

And he goes on to talk about the three different locations and why Auschwitz was selected and then, in paragraph 6, if Your Honors please, which is at page 24 of the English and 21 of the German, line 2:

"Everybody in Germany....."

Going back to the first line. I beg your pardon.

"I did not talk to anybody about the fact that foreigners were brought to Germany against their will, but I was convinced that everybody knew it. Everybody in Germany knew it since the capture of Kiev."

If Your Honors please, the capture of Kiev was in November, 1941.

"...or the beginning of 1942."

Then at paragraph 8, the third line:

"Von Schnitzler and von Knieriem, however, continued to attend the meetings as guests," speaking of the TEA meetings, "the latter because of the patents and because of technical matters and by reason of his position as the head of the I. G. Farben Law Department.

"Hermann Schmitz had attended all meetings as a member of TEA.

It might be, however, that he did not attend a meeting because of sickness."

The next document is NI 6715, which may be marked in evidence - already has been marked in evidence as Exhibit 512, Book 25. This is an affidavit of Max Ilgner, 2 April 1947. It is found at page 26 of the English and 23 of the German. Briefly, the affiant states that Schneider as Chief Plant Leader was the main liaison for I. G. with the German Labor Front; that Bertrams was Schneider's assistant, and, very important, meetings of plant leaders took place in order to advise Schneider for his meetings with representatives of the Labor Front. In other words, by the words of the defendant Ilgner, plant managers met with Schneider in order to assist Schneider in the evaluation of labor policy. And, finally, that Krauch took with him to G. B. Chemie a large number of I. G. employees.

Now, on page 27 of the English and either 23 or 24 of the German, it can be identified, however, as Paragraph B entitled "Technical Positions," and I point out that in order to sort of tie some material together:

"Krauch took over with him a large number of I. G. employees from the various I. G. enterprises, among them Ritter," whose name will be mentioned, "Kirschner," whose name has already been mentioned. In order that the record will be entirely clear, referring back to my statement that Krauch took with him to G. B. Chemie I would like to point out that G. B. Chemie simply means Krauch because, translated, it means the Plenipotentiary for Special Problems in Chemical Production.

The next document is NI 4693, which may be marked in evidence as 1319. This is found at page 31 of the English and 31 of the German.

DR. DIX (Defense Counsel for defendant Schneider): With reference to this document, I should like to point out a mistake in the index. It says there that at the meeting which was recorded several of the defendants, among them Schneider, took part, but the text of the transcript shows that only one of the defendants took part. This is especially of importance because the index shows examples of the activities of the Vorstand and sub-committees. This was a meeting of the technical commission of a sub-committee. It is like this, the names of the defendants are contained in the distribution list, but the defendants were, for the most part, not present at the meeting. If the list of contents did not emphasize the matter it would not really matter, but I point it out for this very reason.

THE PRESIDENT: The document will speak for itself, and the Tribunal will mark out of the index description the list of those present.

MR. VAN STREET: Your Honor, it is respectfully pointed out that the correction which Your Honor has just noted is certainly in order, but we would like to point out also that the men who were named as present at this meeting were actually members of this particular committee.

THE PRESIDENT: If that is shown in the exhibit.....

MR. VAN STREET: Were members of the Technical Committee.

THE PRESIDENT: The document is admissible, and the point speaks for itself, so we won't worry about it.

MR. VAN STREET: The only point I am trying to make is that the men who were mentioned apparently got copies or should have got copies of this protocol.

MR. SPRECHER: Mr. President, the difficulty is the usual one where we have TEA versus TEKÖ. As I pointed out to your Honors in presenting the matters concerning corporate structure, it is terribly easy to confuse, in the translation, Technical Committee and Technical Commission. One is TEA and one is TEKÖ. The Prosecution has offended here because of

that. All the members of the Technical Committee got copies of the minutes of a TEKO or Technical Commission conference. I think that puts the matter correctly, and the Defense will agree with me.

THE PRESIDENT: Thank you very much.

Go on to the next matter.

MR. VAN STRIET: In any event, in this protocol of the meeting, which is dated 14 December 1943, the training program of Brussels is reported upon. It is stated that it has been practically impossible to transfer the trained laborers to Germany, since they flee first.

The next document is NI 2539, which may be marked in evidence as 1320. This is found at page 44 of the English and 46 of the German. This is a credit claim A73/42 entitled "Welfare" from the Schkopau-Buna plant for a new camp to house 500 Russian workers. The request was submitted to Schneider on 12 October 1942, to the TEKO on 22 October 1942, and has the TEA stamp of approval in TLA meeting 28 October 1942. This is put in, in order to indicate to Your Honors the upstream channeling of credit requests of this type and the important persons and key committees whose attention was called to such matters.

MR. KRAUSS (Defense Counsel for defendant Jaehne): Mr. President, I have to point out that the consent and the note of consent was given not by the TEKO but rather by the Technical Committee. This has been incorrectly rendered.

INTERPRETER: This happened to be a translation mistake just now.

THE PRESIDENT: Very well. Counsel, does that obviate your objection?

You may proceed.

MR. VAN STRIET: The next document is NI 2550, which may be marked in evidence as Exhibit 1321. This likewise, Your Honors, is a credit request from Schkopau marked "New Request" for 150,000 Reichsmarks, and the purpose of the request is for the creation of a camp brothel to house 60 prostitutes for the foreign laborers. The request was approved by TLA on 24 April 1941, and down at the bottom of

the document, which is page 45 of the English and 47 of the German, it is noted that the project will be accounted for as "establishments extra". The purpose of this document is to show, in this one instance at least, for what purposes money was expended, and later on, in the presentation of evidence, it will be pointed out and indicated conversely as to what money was not spent for.

The next document is NI 8366, which is on page 46 of the English and 48 of the German, and this document may be marked in evidence as Exhibit 1322. Reference is made to page 53 of the English and 57 of the German, paragraph 7, marked "Miscellaneous":

"At the request of Geheimrat Schmitz, Mann" who was the defendant Mann, "spoke about an assembly meeting of the Large Advisory Council of the Reich Group Industry, on which occasion Gauleiter Sauckel had given an account of the labor allocation situation, the treatment of foreign workers, payment and accommodations, etc. He further stressed the necessity of establishing new piece-wages, under the aspect of bringing about a 'piece-work justice'."

This document is purposed to show the interest which was manifested on the part of these defendants, first in taking the initiative to attend such meetings and, secondly, in taking the initiative to hear a report concerning same in which knowledge came to all those present as to what was going on, so far as the labor market policies were concerned. I might point out that this document is signed by Schmit and Bruggemann, I believe.

The next document is NI 677, which may be marked in evidence as Exhibit 1323. It is found at page 54 of the English and 58 of the German. This is a file note of a conference which was attended by defendant Ilgner with a Dr. Michel, Chief of the Superior War Administration, with the Military Commander in France. On page 54 of the English, 58 of the German, the fourth paragraph:

"On the question raised by Herr Dr. Ilgner and dealing with the transfer of closed-down French factories to South-Eastern Europe, Herr

Dr. Michel remarked that this question cannot be dealt with for the time being, as, on the occasion of the so-called Saackel Action (requisition of some 350,000 French workers for employment in Germany), the French official departments had been promised that the machines would remain the property of the French owners in France."

This document is purposed to show knowledge on the part of Ilgner, which was secured at outside conference levels, as to what was going on insofar as the requisition of foreign labor was concerned.

The next document is NI 5190, which may be marked as Exhibit 1234.

This found at page 56 of the English and 60 of the German. This is an affidavit of defendant Georg von Schnitzler, given on 28 March 1947.

On page 56 of the English and 60 of the German, the affiant states, "Foreign laborers were employed in all the plants of the I.G. Farben," as far as the affiant knows.

On page 59 of the English and 62 of the German, the affiant states, "Ambros arranged for entire lots of units of French laborers from the Rhone Poulenc Councorn, in France, to come to Ludwigshafen-Oppau."

Affiant also states that I.G. sent recruiting representatives to France, Belgium, Holland, Italy, and Croatia and that it was clear that many thousands of workers were employed in I.G. plants who had come to Germany involuntarily.

Reference is made to page 61 of the English and 64 of the German, wherein the affiant states that, "But to fail to accept foreign workers would have been the same as failure to accept raw materials for production. It would have been considered sabotage if an employer did not meet the 'Auflage' -- I think that is 'quota' -- 'after he had been given the possibility of producing it by being offered the required manpower.'"

Then going back to page 60 of the English and 64 of the German, the third sentence from the bottom of the page -- I beg your pardon, the fourth sentence. The affiant states, "I never knew or heard of a single case when any German employer got into difficulty because he had not ordered or accepted foreign laborers, and because of this did not fulfill the production quota. I did hear of some cases where a failure of an industrialist to meet his production quotas or other reasons led to certain results. The normal procedure in such a case was dismissal of a man from his post." And he goes on to give an example.

Counsel has just called my attention, your Honor, to an error in translation; and whereas I read "I did hear of some cases where a failure of an industrialist to meet his production quotas for other reasons" -- instead of "or other reasons."

In Paragraph 9, which is on 61 of the English and 64 of the German, is stated that: "Concerning the use of foreign laborers for war production, I would say that almost all materials produced after 1939 were ...war-important." Then, on further in the page, "the question of whether or not there was anything wrong in having foreign laborers create war-important materials which would be used by Germany in continuing the conduct of the war was a question which I left up to the legal authorities." And still further down: "I knew that the so-called Haager Landkriegsordnung (Hague Convention) existed, and I was of the opinion that what was done in the I.G. Plants corresponded to those rules. I read the Hague Convention in the year 1940. In June or July I visited Monsieur John Ernest Solvay in Brussels, after the Belgian Government had fled to England. He was very much preoccupied with the question of what he should, or could, do under the Hague Convention, so we dismissed jointly the clauses of the Convention. Then, upon returning home, I re-read it at length." Then the last page — I mean the last sentence of the affidavit: "From time to time the still existing Hague Convention, quite apart from the Geneva Convention on prisoners of war, was discussed with some of my commercial colleagues,

for the most part my own collaborators in Frankfurt."

The next document, if Your Honors please, is NI-674, which may be marked as 1325. This is at page 63 of the English and 66 of the German. This is a letter of 27 February '41, to the Reich Economic Ministry, signed by defendants von Schnitzler and ter Meer. In the letter they report a survey of the French Diet, and in reply to the Ministry's statement of 5,872 men employed in the dyestuffs industry, Schnitzler and ter Meer point out that as of 1 February '41 there were only 2,847 workers—but not included in this number were 41 PW's and other foreigners.

The significance of a document like this, in the opinion of the Prosecution, is that it simply points up that at these times, no matter what phase of the Farben business is being dealt with, labor, labor questions and labor policy almost inevitably came into the picture and had to be considered by these defendants. We simply point this up, not for the numerical strength of the numbers cited, but as an indication of broad, general knowledge.

NI-681 may be marked as Prosecution Exhibit 1326. This document starts on page 70 of the English and 77 of the German. It consists of three letters: 1, 3 and 10 March 1943.

The first, which is found on page 73 of the English and 84 of the German, is a letter from Reinhold Krause. This letter was prompted by an inquiry from the Reich Ministry of Economics.

The second, which is found on page 72 of the English and 82 of the German, is a letter from Schnitzler to Bertrams.

To complete the picture, may I say that the first letter was from Reinhold Krause to von Schnitzler; and the third, which is on page 70 of the English and 78 of the German, is a letter from Bertrams to Krause, with a copy to Schnitzler; and it pertains to the present methods of labor allocation. Bertram's reply, he states, is based on the opinions at Ludwigshafen, Huel, Leverkusen, Leuna. And in answer to a request for suggestions, it is stated in this consolidated opinion that it would be necessary to comb the chemical industry in France and Belgium, and that the

skilled workers who thereby become available will be utilized in the chemical industry.

The last statement is found on page 72 of the English and 81 of the German.

The next document is NI-1048 and may be marked in evidence as Exhibit 1327. This is a memorandum which is found on page 75 of the English and 88 of the German, dated 30 June 1942, signed Kramer, to ter Meer and Ambros, re: "Francolor's quota of 100 workers for Germany."

And then there is a letter, 6 November 1942, which is on page 76 of the English and 86 of the German, from Christian Schneider to von Schnitzler and Wilhelm Rudolph Mann, all of whom are defendants. The letter recites "suggestion in the last Vorstand meeting to secure French workers for I.G. from those firms in which I.G. has participations." And Schneider is asking for information as to the possibilities of getting French chemical workers for I.G. plants, and further requests the names of French firms in which I.G. has an interest and in which I.G. plants should be considered for the employment of any workers secured. Finally, Schneider states he will try to find out if intention can be accomplished within the frame work of Sauckel.

Now, the significance of that last letter, in the Prosecution's opinion, is that though defendant Schneider, having the position as Chief Plant Leader and as the Deputy--or, specifically, delegate-- of the Vorstand in labor and labor welfare matters--was responsible for such matters. But he still sought--and secured--the advice of these other defendants in those matters.

The last letter referred to--dated 12 November 1942, and it is addressed to Schneider, and it is in answer to his letter of 6 November '42. It is pointed out: "The transfer of workers of Francolor to I.G. initiated many months ago. "Whole agencies were detailed to Ludwigshafen." Now, that letter is unsigned--but a copy is sent to Mann, and inasmuch as it is an answer to the letter of 6 November '42, addressed to Schnitzler and Mann, Schnitzler is presumed to be the author. However, the letter is not

signed.

The next—

THE PRESIDENT: If counsel pleases, it is almost the hour of adjournment. Are there any necessary announcements before we recess?

MR. SPRECHER: Mr. President, Tuesday we will go on with the presentation of these materials under Count III. I believe I mentioned the books to you before. We are still in Document Book 68, and we shall go up through Document Book 71.

THE PRESIDENT: Any announcements from the Defense? If not, the Tribunal will be in recess until Tuesday morning at nine-thirty.

THE MARSHAL: The Tribunal is in recess until Tuesday morning at nine-thirty.

(The Tribunal adjourned until 4 November 1947, at 0930).

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